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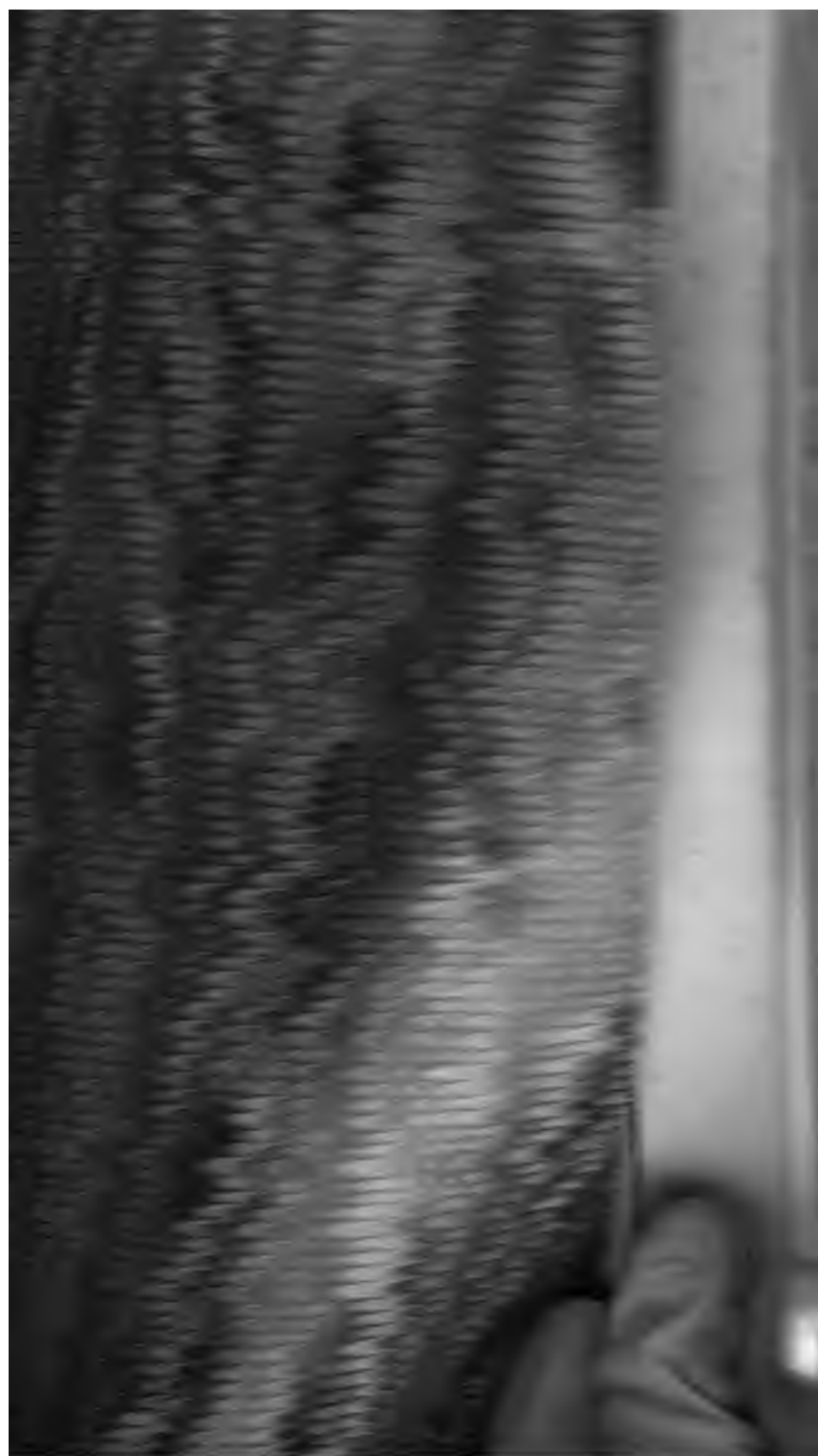
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A
COLLECTION

Of all the
**Ecclesiastical Laws,
CANONS, ANSWERS, or RESCRIPTS,**

With other MEMORIALS concerning the
Government, Discipline and Worship

OF THE
Church of ENGLAND,

From its first FOUNDATION to the CONQUEST,
that have hitherto been publish'd in the *Latin* and
Saxonic Tongues :

And of all the
CANONS and CONSTITUTIONS ECCLESIASTICAL,
made since the CONQUEST, and before the REFORMATION,
'in any National Council, or in the Provincial Synods of

CANTERBURY and YORK,
That have hitherto been publish'd in the *Latin* Tongue.

Now first translated into *Englisk*, with Explanatory
NOTES, and such Glosses from *Lyndwood* and *Asbone*,
as were thought most useful.

PART the SECOND.

By *JOHN JOHNSON*, M. A. Vicar of
Cranbrook in the Diocese of *Canterbury*.

LONDON: Printed for ROBERT KNAPLOCK in
St. Paul's Church-yard, and SAMUEL BALLARD
in *Little-Britain*. MDCCXX.

NOTICE

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P R E F A C E

T O

L A N F R A N C's Canons at *Winchester*.

Anno Dom. MLXX.



I has been affirmed by some of late Years, that William Duke of Normandy did not conquer England, after all our Ancestors for five Centuries had yielded themselves to him and his Successors, as a conquered People; all, I mean, except the Men of Kent, who by the Invention of one of their Monks, did for many Ages enjoy the Honour of being unconquered: But in the last Age, an Antiquary of our own, and the greatest that our Country, or perhaps any other had then produced, I mean Mr. Somner, divested us too of this Glory, by detecting the Fiction of Sprot the Monk; and yet now it is become a fashionable Opinion, that William the First was so far from conquering Kent, that he conquer'd no Part of England. My Reader will not expect that I should determine whether he

A

conquered

PREFACE to Lanfranc's

conquered the Civil State, or Nation: For this might perhaps be construed to my Prejudice, as if I were a Meddler in Politics.

But whether he made a Conquest of the Nation or not, 'tis certain he conquer'd the Bishops and Clergy, and treated them as his Captives; he destroyed many of their Churches, he strip'd most, or all of them, of their rich Furniture; he laid a Taxation of Men and Arms to serve him in his Expeditions upon the Lands of the Bishops and Prelates, and obliged them to secular Services unknown to their Predecessors; he caused many Churches with their Tithes to be converted into Lay Fees, for the maintaining his military Officers, and Men of Arms; the Tithes of other Churches, which were served mostly by English Priests, he caused to be appropriated to Abbies, which were governed, if not fill'd with Normans. He caused Stigand Archbishop of Canterbury, to be deposed in a Synodical Form: The Crimes alleg'd against him, were, First, Holding the See of Winchester together with that of Canterbury; and it was indeed reasonable that he should have parted with one of them, but not turned out of both. Secondly, That he wore the Pall of his Predecessor Robert: This was done only till the Pope sent him a new one, and one would have thought that this had purged away all former Offences. Thirdly, But Stigand received his Pall from an Intruder under the Name of Benedict the 10th. This might have been deem'd a Crime, if ther had been any other Pope at that time. If he had had his Pall from Alexander, who now fill'd the Chair at Rome (as no doubt he gladly would, if that had been sufficient) yet he must no longer have been Archbishop, because Lanfranc the Norman Abbot had occasion for his See: And for the same reason Agelmar Bishop of the East Angles, with several Abbots, were turned out to make room for the Normans. This was done at Winchester, Low Sunday A. D. 1070. On

s

Whitfunday

Canons at Winchester.

Whitsunday the same Year, Agelric Bishop of South Saxons, was deprived in a Synod at Windsor, and committed to Prison in Marlburgh, without any Crime urged against him, and at the same time some Abbots were deprived: It does not appear that they suffered for any Crime, but that they were Englishmen. Some are said to have been deposed without any Synod, or secular Council, by the arbitrary Will of the King.

But it deserves our particular Reflexion, that Pope Alexander the Second, was a principal Agent in all these wicked doings. The Duke of Normandy came over into England under the umbrage of a Banner consecrated by him: He was forward to support the Conqueror's Title, that the Conqueror might support and advance his Interest here in England. Three of his Legates, Hermenfride Bishop of Syon, John and Peter, Priest Cardinals now present at the Deposition of Stigand, and Agelmar, the first of them only at the Deposition of Agelric.

By these Means other Bishops were terrified into a Desertion of their Sees; Robert of Lincoln fled into Scotland, Egelwin of Durham, chose a voluntary Banishment, but pronounced an Excommunication against all Invaders of Churches, and Church Goods: The rest were tamed to such a degree, that they knew no other use of that little Authority that was left them, but to execute the Royal Will and Pleasure upon the small remainder of their disaffected Brethren, who had too much English Blood in their Veins to be easy under such a foreign Yoke. Only Wulstan Bishop of Worcester, durst face the Conqueror, and his Minions.

Of the first remarkable Archiepiscopal Acts performed by Lanfranc, was the assembling of a Synod at London, or rather Westminster, where this Wulstan had a Sentence of Deprivation pass'd upon him for want of Learning. When he saw

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that he must be strip'd of his Episcopal Habit, he said to the King there present, I owe these to a better Man than thee, to him I will restore them; and therupon goes to the Tomb of King Edward the Confessor, by whose Means he was advanced to the See of Worcester, where he disrobed himself, and struck his Pastoral Staff so deep into the Stone of the Monument, that the strongest Arm could not pull it out, if you will believe the Legend. 'Tis certain he continued in his See, and this was Miracle enough in Conscience, all things considered. His Sanctity was most probably his Protection. Nothing but the Sense of his own Integrity could give him so much Courage, (when the rest of his English Brethren either sneaked or ran away) as to demand the Restitution of the Lands, belonging to his See, of the Conqueror in the Synod where Stigand was deprived. Aldred late Archbishop of York, had had several Predecessors who held the See of Worcester together with that of York; this caused a Confusion and Uncertainty in the Estates belonging to the two Sees, and gave Aldred a Reason or Pretence to claim and enjoy some of the Lands, which in truth belonged to Worcester: But by the Death of Aldred, all these Lands were come into the Custody of the King, as Guardian of the Temporalities: Of him therefore Wulstan made his demand, and it seems he made good his claim, and recovered his Right next Year at the Council of Pendred, when the Chair of York was now filled with Thomas the Norman, as all the other vacant Dignities now were with Men of the same Blood.

I ought not wholly to omit the Struggle between these two Norman Archbishops concerning the Primacy. It was at last declared in a Synod of fourteen Bishops, and eleven Abbots, with consent of the King, Queen, and Pope, that York must be subject to Canterbury in all things relating to Religion, and obey

Canons at Winchester.

his Summons to a Synod; that the Province of York should contain all Britain from Humber to the extremity of Scotland, [and] all the rest to be the Province of Canterbury; that the Archbishop of York should, with the rest of the Bishops of that Church, go to Canterbury to consecrate him that was elected to that See, and the Elect of York after having received the Archbishoprick, as a Gift from the King, should receive his Consecration at Canterbury, or wherever that Archbishop should require his Attendance; that the Archbishop of York should swear Obedience to him of Canterbury upon his Consecration; tho' Lanfranc contented himself with Thomas's Subscription. Upon Anselm's Consecration at Canterbury, Thomas objected against the Church of Canterbury's being styled Metropolitan of all Britain: For then, says he, York is no Metropolis: His Objection was allowed, Thomas, Successor of the present Thomas of York, refused to swear Subjection to Canterbury, till the peremptory Command of King Henry I. forced his compliance.

Sir H. S. vol. 2. p. 11, and 12. mentions three Councils in the Year 1076. and the Canons of the first of these you will find inserted at that Year; but the other two must have been holden, I conceive, some Years before; especially because the Rates of Penance are subjoin'd to these Councils in two old Books from which Sir H. S. transcribed them, and those Rates are said to have been confirmed by Hermenfride the Pope's Legate. For it is notorious that he came hither in the beginning of the Year 1070, and summoned a Council to be holden at Winchester on the third Day after Easter the same Year, in which Archbishop Stigand, and others now deposed, and in which I suppose the first Set of Canons were made. The next Council holden at Winchester was that mentioned by the Latin Continuator of the Saxon Chronicle, who says that Lanfranc in his second

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10. That the Bells be not toll'd at celebrating in the time of the ^a Secret.

^a The *Secretum Missæ* is the Canon of the Mass going before the Elevation. Not that ther was yet any such Ceremony as that of the solemn Elevation uted in order to the worshipping of the Host: But the Bells were rung as soon as the Consecration was finished, in order to excite the People to Prayers, as *William* Archbishop of *Paris* teacheth us in his fourteenth Canon, and the consecrated Host was shewed to the People at the same time; this was at the beginning of the thirteenth Century: The worshipping of it came in soon after. It is great pity that we have not these, and the foregoing Canons at large, they would probably have given us considerable light into the Practices of a very dark Age.

11. That Bishops only give Penance for gross Crimes.

12. That Monks, who have thrown off their Habit, be neither admitted into the Army, nor into any Convent of Clerks, but be esteem'd excommunicate.

13. That every Bishop celebrate a Synod once a Year.

14. That Tithes be paid by all.

15. That Clergymen either live chastly, or desist from their Office.

16. That Chalicees be not of Wax or Wood.

A. D. MLXXII.

Soldiers Penance.

Lat. **T**HIS is the Institution of Penance according to the Decrees of the *Norman* Prelates (confirmed by Authority of the chief Pontif, by his Legat *Hermenfride* Bishop of *Syon*) to be imposed upon

at Winchester. MLXXII.

upon those Men ^b whom *William* Duke of the *Normans* commanded to be in Arms, and upon those who were in Arms without his command and did of right owe him military Service.

^b Here I follow Mr. *Sommer's* Emendations: Sir *H. S's* Copy is corrupted.

1. ^c Let him who knows he killed a Man in the great Battle do Penance one Year for every one, according to the number [slain by him.]

^c It is strange that they who allow the lawfulness of War, and of killing Men in Battle, should yet injoin Penance to Men for doing their duty as Soldiers: Yet this is what all the ancient Penitentiaries do. The *Canons ad remedia Peccator*. which are the most ancient of the *English*, injoin but forty days Penance for killing a Man in Battle. *Can.* 3.

2. For every one that he struck, if he do not know that he died of the Blow, if he remember the number, forty days for every single Man, either all at once, or by intervals.

3. If he know not the number of Men, whom he has slain, or struck, let him do Penance one Day in every Week, at the discretion of the Bishop, as long as he lives; or if he be able, let him redeem it with perpetual Alms, by building, or endowing a Church.

4. Let him that intended to strike any one, tho' he did it not, do three days Penance.

5. As for those of the Clergy who fought, or armed themselves to fight, because fighting is forbidden them, according to the Canonical Institutes, let them ^d repent as if they had sinn'd in their

^d The Clergyman's Penance for Murder was perpetual Imprisonment; or at least living close in a Monastery, on hard Fare; but much was left to the discretion of the Bishop.

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their own Country. Let the Penances of the Monks be stated according to their own Rule, and the Judgments of the Abbots.

6. Let them who fought thro' hopes of Reward only, know that they ought to do Penance ^e as for Murder.

^e The common Penance for wilful Murder was seven, or ten Years: Yet by the old Canon last mentioned, it was but four Years for killing a Layman, seven Years for killing a Clergyman. This last Case was now reserved to the Pope, who acted at discretion.

7. But the Bishops have appointed three Years of Penance to them who fought in the publick War ^f for the discharge of their Amerciaments.

^f *Pro misericordia. Lat.*

8. As for the Archers, who have ignorantly kill'd, or wounded any without killing of them, let them do Penance for three Lents.

9. Whoever from the beginning of this Battle, before the King's Consecration, have run up and down the Kingdom to get Victuals, [and] have kill'd any of their Enemies who made resistance, let them do a Years Penance for every one whom they killed.

10. But let them who have run up and down not for want of Victuals, but to get Plunder, and have kill'd any, do three Years Penance.

11. But let him who hath killed a Man since the Consecration of the King, do Penance as for wilful Murder: Saving that if any one killed, or struck a Man that was yet resisting the King, let him do Penance as above.

12. Let a Man do Penance for all manner of Adulteries, Rapes, and Fornications, as if he had sinn'd in his own Country.

13. As

at London. MLXXV.

13. As to the violation of Churches, as also things which they have taken away from Churches, let them, if possible, restore them to that [Church] from which they took them; if that cannot be, to some other Church. But if they refuse to restore them, the Bishops have ordained, that neither they do sell them, nor others buy them.

A. D. MLXXV.

Lanfranc's *Canons at London.*

Sir H. S. vol. 2. pag. 7. Ex MS. Wigorn. Ecclesiæ.

IN the Reign of *William* the glorious King of the *English*, the ninth Year, was assembled in *Lat.* the Church of the Blessed Apostle *Paul*, *London*, a Council of the whole *English* Nation, viz. of Bishops, Abbots, and many Persons of Religious Order, *Lanfranc* the Arch-prelate of the Holy Church of *Canterbury*, Primate of the whole Isle of *Britain*, calling and presiding in the same; the venerable Men *Thomas* Archbishop of *York*, *William* Bishop of *London*, & *Goisfrid* of *Constance*, (who, tho' a foreign Bishop, yet having much Land in *England*, sat in Council with the rest) *Walkelin* of *Winchester*, *Herman* of *Shirburn*, *Wulfstan* of *Worcester*, *Walter* of *Hereford*, ^h *Giso* of *Wells*, *Remigius* of *Dorchester*, or *Lincoln*, *Herfast* of *Helmam*, or *Norwich*, *Stigand* of *Seolsey*: *Osburn* of *Excester*, *Peter* of *Litchfield*: *Rochester* Church then wanted a Pastor: The Bishop of *Lindisfarn*, or *Durham*, could not be present in Council having a Canonical Excuse.

Many

^g Alias *Gaufrid*. This Preface was written by a later Hand, after all the Village Bishops were translated to Cities.

^h This Bishop was born in *Lorrain*, and was a great Favourite

MLXXV. Lanfranc's *Canons*

Favourite of *William* the Conqueror, as well as *Edward* the Confessor : For he too was fond of Foreigners.

Many things were renew'd, which are known to have been defined by old Canons, because Councils had been disused in the Kingdom of *England* for many Years past.

It was ordained according to the Council of ⁱ *Milevis*, *Brague*, and the fourth of *Toledo*, that Bishops should take place according to the time of their Ordination, unless their Sees had the privilege of Precedence by ancient Custom. The Seniors being ask'd what they had seen, or heard from others as to this Point, had time given them till next Day to make answer, as they did, *viz.* That the Archbishop of *York* ought to sit at the right Hand of him of *Canterbury*, he of *London* on the left, *Winchester* next to *York*; but if *York* were absent, then *London* at the right Hand, *Winchester* at the left of *Canterbury*.

ⁱ See *Can. Mil.* 13. *Can. Bracar.* (A. D. 563.) 6. *Can. Toles.* (A. D. 633.) 6.

2. That Monks observe their Order according to the Rule of *Benedict*, and the Dialogue of *Gregory*, ^k [that the young [Monks] be kept under Masters in proper places appointed for this purpose; that all of them carry Lights by Night, unless such as are not allowed by their Prelates to have any thing of their own.] If any without Licence are discovered to have any thing of their own, and do not with Repentance confess, and discard it before they dye, let not the Bells be toll'd, nor the salutary Sacrifice be offer'd for such
an

^k *Malsbury's* Copy, and that of the publick Library at *Cambridge*, instead of the words in [] have only these following, *viz.* *That Monks have nothing of their own.*

at London. MLXXV.

an one, nor is he to be buried in the Church-yard.

3. ¹ According to the Decrees of ^m Pope *Damasus* and *Leo*, and the Councils of *Sardica*, and ⁿ *Laodicea*, it is granted by Royal Favour, and the Authority of Synod to three Bishops, to remove from Villages to Cities, that is, *Herman* from *Shirburn* to *Salisbury*, *Stigand* from *Seolsey* to *Chichester*, and *Peter* from *Litchfield* to *Chester*. The Case of ^o some, who are yet in Villages, is deferred till the King return from foreign Parts.

¹ The third, fourth and fifth Canon are wanting in the *Cambridge* Copy.

^m The Decrees of *Damasus* are Forgeries. See *Dec.* 49. of *Leo*. *Can.* 6. of *Sardica*.

ⁿ *Can.* 57. of *Laodicea* forbids *Chore-episcopi*, but this of *Lanfranc* is meant of the principal Bishop.

^o That is *Kirton*, *Dorchester*, and *Helman*, which were afterwards removed to *Excester*, *Lincoln*, and *Norwich*. *Pol. Virgil* adds that *Wells* was removed to *Bath*: And he places this Council 1078. But ther is little regard to be had to him, especially in point of Chronology.

4. That no one ordain or receive a Clergyman, or Monk, that belongs not to him, according to many Papal Decrees and sacred Canons.

5. To restrain the Insolence of some, it was unanimously ordained, that none but Bishops and Abbots, speak in Council, without license of the Metropolitan.

6. That no one marry any of his own Kindred, or of the Kindred of a deceased Wife, or the Widow of a deceased Kinsman within the seventh degree, according to the Decree of *Gregory* the ^p Great and the *Lefs*.

7. That

^p *Gregory* the Great allow'd Marriage in any degree beyond the fourth, as appears by his Prescript to *Augustin*

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gastin of *Canterbury*. *Burchard* and *Gratian* have pawm'd a Decree upon him, which seems to countenance *Lanfranc* here; but the late Editors of the *Corp. Jur. Can.* do clearly enough own the Error. *Caus. 35. Quest. 2, 3. c. 16. p. 431, Ed. Paris. 1695.* 'Tis true a Decree to the same Effect is cited from *Gregory* the Great. *Quest. Ead. c. 2. p. 431.* But it is said to be cited by the Council of *Meaux, A. D. 600*; whereas ther is no good Proof of any such Council at *Meaux* before the ninth Century, and it is therfore of no Authority at all to prove any such Decree of *Gregory* the Great. The very next Canon to this in the *Corp. Jur. Can.* allows those in the fifth Degree to marry, and forbids those in the fourth to be separated if they are married, which the Editors attribute to *Theodore* of *Canterbury*, and which was the Doctrine of *Gregory* the Great, tho' *Gratian* cites it as a Decree of Pope *Fabian*.

7. That no one buy or sell Orders, or any Ecclesiastical Office, wherein the Cure of Souls is concerned [¶]. For *Peter* forbad this to *Simon*, and it is forbidden by the holy Fathers, under Pain of Excommunication.

[¶] The foregoing words of this Canon are not in *Malsbury*, and the following Canon in him wants the first Clause.

8. That the Bones of dead Animals be not hung up to drive away the Pestilence from Cattel, and that Sorcery, Sooth-Sayings, Divinations, and such like Works of the Devil be not practised; for the holy Canons forbid this under pain of Excommunication.

9. That no Bishop, Abbot, or Clergyman sit as Judge in a Cause of Life, or Member, or by his Authority countenance them that do, according to the Council of [¶] *Eliberis* and [¶] *Toledo* the 11th.

Fourteen

[¶] By Can. 56. *Elib.* the *Duumvir* was forbid to come to Church, during that Year that he bore this Office. I find nothing else to the Purpose in those Canons.

[¶] See the sixth Canon of the Council of *Toledo, A. D.*
638.

at Winchester. MLXXVI.

638. Our old *English* Bishops made no Conscience of sitting in the secular Courts before the Conquest: But then it must be own'd Life, or Limb seldom was in dispute. A Weregild, Mulct, or a severe Jerking was the usual Infliction; tho' after the *Danes* got the rule other corporal Punishments were in use.

Fourteen Archbishops and Bishops subscribe, twenty one Abbots, but *Anschitill* Archdeacon of *Canterbury* before the Abbots.

A. D. MLXXVI.

Lanfranc's *Canons at Winchester.*

Sir H. S. vol. 2. p. 13.

L *Anfranc* Archbishop of *Canterbury*, assembled another Council at *Winchester*, Indict. 14. the most glorious *William* reigning in *Britain*, *Lanfranc* presiding at *Canterbury*, *Thomas* at *York*, in which it was decreed, *Lat.*

1. That no Canon have a Wife; that such Priests as live in Castles and Villages, be not forced to dismiss Wives, if they have them; but such as have not, are forbidden to have any. And for the future, let Bishops take care to ordain no Man Priest or Deacon, unless he first profess that he hath no Wife.

2. That no Clergyman or Monk be received without his Bishop's Letters: And if a Monk be canonically received, yet let him not publicly serve in the Churches.

3. It is decreed, That no Clergyman either in the City or Country, pay any ^a Service for his Ecclesiastical Benefice, but what he paid in the time of King *Edward*.

4. If

^a This is to be understood of secular Service, viz. finding Men, or Arms for the Wars, paying any Rent in

MLXXVI. Lanfranc's *Canons*

in Coin, Money, or Work to the Lord, either Mean or Sovereign. For not only the King himself, but his great Men did all they could to humble the poor *English* Clergy: Yet *Lanfranc*, and the *Norman* Bishops seem to condemn this; but to very little purpose.

4. If Lay Men are accused of any Crime, and will not obey the Bishop, let them be summon'd three several times; if upon the third Summons, they are never the better, let them be excommunicated. If after their being Excommunicate, they come to make Satisfaction, let them pay their ^b Forfeiture to the Bishop for every Summons.

^b This Forfeiture is thus express'd in the *Latin*, *Forisfacturam*, *quæ Anglicè vocatur Otrethyrnels*, *sen Cahlyte*. *Otrethyrnels* is the old *Saxon* word for Disobedience, or Contumacy. I have never elsewhere met with the other word; but it seems to me to signify a *Contempt of the Keys* that is, of Ecclesiastical Authority: As *Lahrlite* signifies a *multa* for the *Contempt of the Common Law*; *quasi* *Laga-rlite*; so *cahrlite* was a *Forfeiture for the Contempt of the Keys*; *quasi* *cæga-rlite*. (*Sommer* here reads *Lahrlite*). And since those *Norman* Bishops had the name from the old *English Saxons*, we may safely conclude they had the thing too: I mean, that they cited Men before them by a pure Ecclesiastical Authority, and might lay *Multas* on them that were guilty of Contumacy, and that therefore they had Courts distinct from the Secular. See King *William's* Rescript following next after these *Canons*.

5. Farther, It is ordained, that no Man give his Daughter or Kinswoman in Marriage, without the Priest's Benediction: Other Marriage shall be deem'd Fornication.

6. We forbid all ^c Supplantation of Churches.

A. D.

^c *William* the Conqueror, and his Minions endeavoured to strip Churches and Monasteries of their Estates by inquiring into the Titles, by which they held them:

MLXXXV. *Separation of, &c.*

them: The Clergy, and Monks were destitute of written Deeds, and Charters, whereby to give such Evidence of their Right, as the *Normans* demanded: In some Cases the old *English Saxons* convey'd their Lands by Instruments in writing; yet for the most part Estates were given by word of Mouth, and by delivering a Sword, a Staff, or the like: But for want of Charters they lost a great share of their Endowments: This is what the Synod here calls a *Supplantation of Churches*. And ther is reason to believe, that the third Canon, and this made little impression upon the Consciences of the *Normans*. *Ingulphus* was made Abbot of *Crowland* this very Year and was the King's great Favourite, tho' of *English* Extract; yet he found occasion to forge a Set of Charters, whereby to secure the Lands of his Abby from these Harpies: For the Monks made no Conscience of supplanting the Supplanters, and this was the cause of so many false Deeds, and Charters as are every where to be found in the Repositories of the Antiquarians.

A. D. MLXXXV.

^d *King William the First's Mandate for separating the Ecclesiastical Court from the Hundred Court.*

Sir H. S. vol. 2. p. 14.

William by the Grace of God King of the *English*, to *R. Bainard*, G. of *Magneville*, and *Peter of Vatoins*, and all my liege Men of *Essex*, *Hertfordshire* and *Middlesex*, Greeting.

Know

^d This is without Date, as very many ancient Instruments of the greatest Importance were. *Sir H. S.* justly, I think, places it about A. D. MLXXXV. The *Norman* Bishops who powerfully prevail'd on the King to make this great alteration in the Constitution, by which the Spirituality was more untack'd from the Temporality; and it was very agreeable to the temper of the Church of *Rome*, which always declared against Clergymens

B

meddling

MLXXXV. *Separat. of Temporal &c.*

meddling with secular Judicatures. But they are greatly mistaken, who think that the Bishops, and Prelates got any thing by this Separation. For they ever had their distinct Judicatures for merely Spiritual Matters, and it is greatly to be lamented that they ever assum'd to themselves the Cognisance of any civil Matters in their own Courts. However it will appear, that this Separation occasion'd great Disputes (see Articles of *Clarendon*). The old *English* Bishops were probably neither disposed, nor encouraged to sit in Temporal Courts with the then *Norman* Lords: The *Norman* Bishops declin'd it, as contrary to their Scheme of Government; so that the Judicatures might be separated in Fact long before this Law was made.

Know ye, and all my liege Men in *England*, that I have determined that the Episcopal Laws be mended (as having not been right according to the Tenor of the Canons, even to my Time, in the Realm of the *English*) by a Common Council, and by a Council of my Archbishops, Bishops, Abbots, and Principal Men of my Kingdom: Wherefore I command and charge you by Royal Authority, that no Bishop nor Archdeacon do hereafter hold Plea in the Hundred, according to the Laws Episcopal, nor bring those Causes before the secular Judicature, which concern the Regimen of Souls. But whoever is impleaded by the Laws Episcopal, for any Causes or Crime, let him come to the Place which the Bishop shall chuse and name for this purpose, and there make Answer concerning his Cause and Crime; and that not according to the ^e Hundred, but according to the Canons and the Laws Episcopal, and let him do right to God and

^e *Hundred* here signifies not only the lesser Court kept in every District, that had ten Tithings, but every Common Law Court, that of the County not excepted: For that was but a Collection of many Hundreds, and every lesser Court consisted of one or more of these Hundreds; for they were not confined to any certain number.

PREFACE to Anselm's *Canons, &c.*

and the Bishop. But if any one being list'd up with Pride, refuse to come to the Bishop's Court, let him be summon'd three several Times; and if by this means he be not brought to Obedience, let Application be made to the Power and Court of the King, or Sheriff; and he who upon Summons refuses to come to the Episcopal Court, shall make ^f Satisfaction for every Summons, according to the Laws Episcopal. This also I absolutely forbid, that any Sheriff, Provost, Minister of the King, do any ways concern himself with the Laws which belong to the Bishop, or bring another Man to ^g Judgment any where but in the Bishop's Court. And let Judgment be no where undergone but in the Bishop's See, or in that Place which he appoints for this purpose.

^f Here the King expressly owns a Satisfaction due to the Bishop for not appearing at his Summons before the making of this Partition of Judicatures; therefore there can be no reasonable doubt, but that the Bishop exercised a separate Jurisdiction in foregoing times. But he sat in the County Court too, and he, or his Archdeacon in every lesser Hundred Court. For there he was sure to meet with such Offenders (if they were to be found) as would not appear without Force. And farther, it was his duty to assist the Alderman, or Sheriff in dispensing civil Justice.

^g By Judgment here I understand Ordeal.

A. D. MCII.

PREFACE to Anselm's *Canons at Westminster.*

During the unhappy Reign of William Rufus, there was no Ecclesiastical Synod, and nothing went right. Lanfranc having sat above eighteen Years in the Archbishop's Chair, died in the Year

B x

MLXXXIX;

PREFACE to Anselm's *Canons*, &c.

MLXXXIX, and the See remained vacant near five Years. And though Anselm was consecrated toward the End of the Year MXCIII, yet he had no Time for regulating the Church. He had first a long Contention with the King (William Rufus) which he maintained with great Fierceness and Obstinacy, concerning his receiving the Pall from Pope Urban, whom the King did not acknowledge to be duly elected. Afterwards he was engaged in a Dispute with the same Prince and his Brother, and Successor, Henry I. concerning the Right of Investiture: For Bishops here in England as well as in other Churches, used to receive a Ring and Pastoral Staff from the King upon their doing Homage to him before their Consecration. This Practice seems to have been introduced by the See of Rome. For Pope Adrian in a Synod Anno Dom. 867, gave Charles the Great, Power to elect the future Popes, and determined that Archbishops and Bishops should receive Investiture from him, and forbad any to be consecrated under pain of Anathema, that were not so invested, and these Facts stand recorded in the Body of the Canon Law. Dist. lxiii. c. 22, 23. And tho' the same was done again near an hundred Years after by Pope Leo to Otho, yet by Anselm's Time, the Popes had repented of their Predecessors Easiness, and this Practice of Princes, was called the Heresy of Investitures, and Bishops in many Places refused to take the Staff and Ring from Kings; for it was thought inconsistent with their Spiritual Authority, which they received from the Pope only under Christ. By means of these Heats, Anselm spent most of the sixteen Years of his Primacy in Banishment abroad, or in Conflicts at home; and the generality of the Bishops stood with the King, and against the Archbishop in these Points. However he assembled a Synod for the Reformation of the Church.

A. D. MCII.
Anselm's Canons at Westminster.

Sir. H. S. vol. 2. p. 23.

IN St. Peter's Church on the West side of *Lon- Lat.*
don, (i. e. *Westminster*) this *Anselm* Archbishop
of *Canterbury*, *Girard* Archbishop of *York*,^b and
other Bishops and Abbots, with the Consent of the
King and Principal Men of the whole Realm; the
Archbishop met in Synod, petitioning they might
be present, to the Intent, that what was done
might be more unanimously observed; especially,
because for long want of Synods Christian Zeal
was grown cold, says *Malmsbury*. In this Synod
three great Abbots were deposed for Simony, three
that had not yet been consecrated, were turn'd out
of their Abbies, and three others were deprived
for other Crimes, tho' several of them were after-
wards restored by dint of Money: And farther it
was decreed,

^b *Thomas*, his Predecessor, attended *Lanfranc* of *Can-*
terbury in five Councils, says a MS. in the *Cotton* Libra-
ry, *Sir H. S. p. 15*. In the first Copy of *Sir H. S.* ele-
ven Bishops are mentioned: Among them *Herveus* Bi-
shop of *Banbor*, the first *Welsh* Bishop, that I ever ob-
served present in an *English* Council: And the Arch-
bishop ordained two others at this Assembly, viz. *Roger*
the King's Chancellor to *Salisbury*, and *Roger* his Lar-
derer to *Hereford*; but he dyed at *London* presently after
his Consecration.

1. That Bishops do not keep secular Courts of
Pleas, that they be apparel'd not as Laymen, but
as becomes religious Persons, and have honest Men
to bear Testimony to their Conversation.

2. That Archdeacons be not let to farm.

3. That Archdeacons be Deacons.

MCII. Anselm's *Canons*

4. ⁱ That no Archdeacon, Priest, Deacon, or Canon marry a Wife, or retain her, if he be married. That every Subdeacon be under the same Law, tho' he be not a Canon, ^k if he hath married a Wife after he had made Profession of Chastity.

ⁱ The Reader by comparing this, and the sixth and seventh Canon with the first of *Lausfranc's*, 1076. will see how the zeal of the Prelates of this Age against the Clergy's marriage was improved in less than thirty Years time. They well knew, that a married Clergy could never turn Slaves to the Pope against the Civil Power, which was the chief aim of *Anselm*, and his Adherents.

^k By this it appears, that there were some Subdeacons yet alive, who had taken that Order, before Men were obliged to profess Chastity at the receiving of it: And well might they content themselves with it, while this Order qualify'd them to hold a Canonry: But this last Clause is not in the other Copy.

5. That the Priest who is lewd with a Woman, is not a lawful Priest; let him not celebrate Mass, or be heard by others, if he do.

6. That none be ordained Subdeacon, or to any Degree above that, without professing Chastity.

7. That ^l Sons of Priests be not Heirs to their Fathers Churches.

^l *Edmer* the writer of *Anselm's* Life tells us, that it was forbid by the Church of *Rome* to the Son of a Clergyman to be admitted into Ecclesiastical Offices, but that Pope *Pascal* dispensed with this in *England* by a Decretal sent to *Anselm*. I find nothing of this elsewhere; but the reason given by *Edmer* for this Dispensation is very observable, viz. that "The greater, and better part of the Clergy in *England* were the Sons of Priests."

8. That no Clergyman be Reeves or Agents to secular Persons, nor Judges in case of Blood.

9. That

at Westminster. MCII.

9. That Priests go not to Drinking Bouts, nor drink to Pegs.

10. That Priests Cloths be all of one Colour, and their Shoes plain.

11. That Monks, or Clergymen, who have forsaken their Order, do either return or be excommunicate.

12. That the ^m Crown of Clergymen be visible.

^m That is the Tonsure, or Circle on the Crown of the Head, which was always kept shaved.

13. That ⁿ Tithes be not paid but to the Church only.

ⁿ This seems to intimate that the *Norman* Lords had impropriated some Tithes, and that the Synod intended to resume them.

14. That Churches, or Prebends be not bought.

15. That new Chapels be not made without Consent of the Bishop.

16. That Churches be not consecrated till all Necessaries be provided for the Priest and It.

17. That Abbots do not make Soldiers, and that they eat and sleep in the same House with their Monks, except in case of Necessity.

18. That Monks injoin Penance to none, without their Abbots Consent, and that Abbots give no License to injoin it to any but such whole Souls are intrusted to their Care.

19. That Monks be not Godfathers, nor Nuns Godmothers.

20. That Monks may not hire Farms.

21. That Monks do not accept [of the Impropriations] of Churches, without the Bishop's Consent, nor so rob those which are given them of their Revenues, that the Priests who serve them be in want of Necessaries.

MCII. Anselm's *Canons*, &c.

22. That Promises of Marriage made between Man and Woman, without Witness, be null, if either Party deny them.

23. That they who have Hair, be so clip'd that part of their Ears be visible, and their Eyes not covered.

24. That they who are ° related within the seventh Degree, be not coupled in Marriage, nor cohabit, if married: And if any that is conscious to this Crime, do not discover it, let him acknowledge himself a Complice in the Incest.

° See *Lawfranc's Canon* 6. 1075.

25. P That Corpſes be not carried out of their Pariſhes to be buried, ſo that the Prieſt of the Pariſh loſe his juſt Dues.

P The Canon Law in this Caſe obliged thoſe, who had buried the Corps in their Church, or Church-yard, to take it up, and reſign it to the Church to which it belonged, while alive. *Decretal. Lib. 3. Tit. 28. c. 5, 6.*

26. Let no one attribute Reverence or Sanctity to a Dead Body, or a ¶ Fountain, or other Thing (as it ſometimes is, to our Knowledge) without the Biſhop's Authority.

¶ This ſtupid Superſtition continued down to the fourteenth Century. It is complained of and forbid in a *Diocesan Synod* at *Wincheſter*, A. D. 1308. *Sir H. S. vol. 2. p. 456.* and is ſtill continued with the Approbation of the ruling part of the Church of *Rome*.

27. † That none exerciſe that wicked Trade, which has hitherto been practis'd in *England*, of ſelling Men like Beaſts.

28. In

† This is left out in the firſt Copy of *Sir H. S.* and the reaſon is plain, viz. That this filthy Vice was then ſo riſe, that *Anſelm* was forced to forbear the Publication of it every *Lord's Day*, according to the Decree of Council:

PREFACE. *Compromise, &c.* MCVII.

Council : And indeed it is particularly observed, that all these Canons were soon brought into Contempt, inso-much, that the Clergy of *York* Province absolutely refused to profess Chastity upon their Ordinations, and to submit to the other Regulations here enjoined : even the most beastly Sin here mentioned found its Patrons ; inso-much that *Anselm* himself was aw'd into a Con-nivance at it, till this King about the tenth Year of his Reign was pleas'd to countenance the Execution of these Canons.

28. In the same Synod, profligate, obstinate *Sodo-mites*, were struck with *Anathema*, till by Confes-sion, and Penance, they deserve Absolution : And it was ordained, That if any Ecclesiastical Person were guilty of this Crime, he be never admitted to any higher Order, and that he be degraded from that in which he is : If any Layman, that he be deprived of all lawful Dignity in the whole Realm, and that no one but the Bishop presume to absolve him, except he be a ^fvowed Regular. 2

^f Vow'd Regulars were to be absolv'd by their Ab-bots, or other Superiors.

29. That the aforesaid Excommunication be publish'd in all Churches throughout *England*, e-very Lord's Day.

A. D. MCVII.

PREFACE. *Compromise of Investitures.*

Sir H. S. vol. 2. p. 27.

AFTER a long Dispute between King Henry I. and Archbishop *Anselm*, upon the Point of In-vestitures, the King finding that the Pope was against him, and that tho' Girard Archbishop of *York* was willing to consecrate such as received Investiture from
the

MCVII. *Compromise of Investitures.*

the King, yet William Giffard Bishop Elect of Winchester, refused to be consecrated by him; and Reinelm Bishop of Hereford resigned his Bishoprick upon a Scruple of Conscience, because he believed himself guilty of a great Offence in having received Investiture from the King: Therefore this wise Prince being not willing to push Matters too far, tho' he had banished William Giffard for his Contempt of the Archbishop of York's Consecration, recalls him, and assembles all his Bishops, Abbots, and Great Men at London, where the Dispute concerning Investitures, was compromised by the two following Articles.

A. D. MCVII.

Compromise of Investitures.

Lat. 1. **T**HAT for the future, none be invested by the King, or any Lay Hand, in any Bishoprick or Abby, by delivering of a Pastoral Staff, or a Ring.

2. By the Concession of *Anselm*, none elected to any Prelacy, shall be deny'd Consecration, upon account of the Homage which he does to the King,

The King is also said at the same time to have promised, that he would forthwith deliver vacant Bishopricks and Abbies, to the Successors; and the Dispute which had lately been revived between the two Archbishops, concerning the Primacy, was at the last determined as formerly; and Girard of York laying his Hand on Anselm's of Canterbury, swore the same Subjection to him that he had formerly done, when he was consecrated to the Bishoprick of Hereford; yet this Controversy was renew'd upon the Death of Girard; for Thomas Elect of York refused to swear Obedience to Anselm; and therupon Anselm pronounces Anathema against any that should consecrate him

Anselm's *Canons*, &c. MCVIII.

him till he comply'd. It seems probable that he cursed too all that should abet Thomas in refusing Obedience to the See of Canterbury; at least King Henry so understood it; for upon Anselm's Death, he call'd a Council, and declared he would not continue one Hour under Anselm's Curse; and therefore with Consent of all the Bishops and Great Men, Thomas was obliged to profess Obedience in the usual Form, to Ralph, Anselm's Successor. And says Hovedon, Anselm consecrated five Bishops in one Day at Canterbury (others say six) the Suffragans of that See assisting him in that Office, that is, as he adds, Girard Archbishop of York, Robert of Lincoln, John of Bath, Herbert of Norwich, Robert of Chester, Ralph of Chichester, Ranulph of Durham. No Body as the Historian adds, remember'd so many Bishops elected and consecrated at once, since the time of Pleigmund in the Reign of Edward the Elder, who consecrated seven Bishops to seven Churches in the same Day.

A. D. MCVIII.

Anselm's *Canons* at London.

Sir H. S. vol. 2. p. 29.

Anselm Archbishop of Canterbury, and Thomas Lat. Elect of York, and all the Bishops of England, ordained these Statutes in the Presence of King Henry the First, and his Barons at London.

1. That Priests, Deacons, and Subdeacons live chastly, and keep no Women in their Houses, but such as are nearly related, according to the Council of Nice.

2. That such of them as have kept or taken Women, since the Prohibition at London, and have

‡ *Viz. A. D. 1102.*

MCVIII. Anselm's *Canons*, &c.

have celebrated Mass, do so wholly discard them, as not to be with or meet them in any House knowingly ; and that the Women may not live on any Ground that belongs to the Church.

3. If they have any honest Occasion to speak with them, let it be done without Doors, before two lawful Witnesses.

4. If any of them are accused by two or three lawful Witnesses, or by the publick Report of the Parishioners, to have transgress'd this Statute, let him, if a Priest, make his Purgation by six Witnesses, if a Deacon, by four, if a Subdeacon, by two : And if he fail, let him be deem'd a Transgressor.

5. Let such Priests as chuse to live with Women, in Contempt of God's Altar, and their Holy Orders, be deprived of their Office and Benefice, and put out of the Choir, being first pronounced infamous.

6. And if he celebrate Mass, and do not leave his Woman, let him be excommunicate, unless he come to Satisfaction within eight Days after Summons.

7. Let Archdeacons and Canons be liable to the same Sentence, as to their leaving their Women, and as to the Censure to be pass'd if they transgress.

8. All Archdeacons shall swear that they will not take Money to tolerate Men in transgressing this Statute ; nor for tolerating Priests whom they know to keep Women, to celebrate Mass, or to have Vicars. Deans shall do the same. He that refuses, shall forfeit his Archdeaconry, or Deanary.

9. Priests who chuse to leave their Women, and to serve God, and his holy Altars, shall have Vicars to officiate for them, during the forty Days in which they are to desist from their Office ; and
are

MCXXVI. Corboyl's *Canons*, &c.

are to have Penance enjoined them at the Bishop's Discretion.

10. The Bishops shall take away all the moveable Goods of such Priests, Deacons, Subdeacons, and Canons as shall offend herein for the future, and also their "adulterous Concubines, with their Goods.

" I conceive the adulterous, or lewd Woman was still forfeited as a Slave to the Bishop according to the old *English* Laws.

A. D. MCXXVI.

Archbishop Corboyl's *Canons* at London.

Sir H. S. vol. 2. p. 33.

A National Synod was call'd at London to be holden in St. Peter's Church, Westminster, by William Corboyl *Archbishop* of Canterbury; but * John de Cremona, Pope Honorius the Second's Legate, presided in it: Thurstan *Archbishop* of York was there present, with twenty Bishops of divers Provinces, and about forty Abbots, and an innumerable Multitude of Clergy and People.

In

* This Legate lies under an Imputation of being caught in Bed with a Whore the Night after he had pass'd these Decrees, the thirteenth whereof absolutely forbids Clergymen the use of Women.

It is observable that this *W. Corboyl* is said to have been the first who ever was *Archbishop* of *Canterbury*, that had not been a Monk, and of the Benedictine Order: But he had been a Canon Regular: Yet he was much stomack'd by the Monks. This *Archbishop's* Letter to the Bishop of *Landaff* for summoning him to this Legatin Council is extant, *Sir H.S. vol. 2. p. 33.* The *Archbishop* intimates, that this Council was to be held by the Legate, but by the *Archbishops* allowance, *extra conventu*

MCXXVI. Corboyl's *Canons*

conviventia in the Latin. It is farther observable, that the right of electing the Archbishop was not yet settled. The Monks of *Canterbury* propos'd four to the King and Council, desiring them to chuse one out of that number; but the King referred it to the Bishops, tho' the Lords favoured the Monks. At last the Bishops propos'd four to the Monks, they chose *Corboyl* one of the four.

In this Council the following Heads were publish'd and confirm'd.

Lat. 1. **W**E following the ancient Fathers, forbid by Apostolical Authority, any Man to be ordained for Money.

2. We charge that no Price be demanded for Chrism, Oil, Baptism, visiting or anointing the Sick, for the Communion of the Body of *Christ*, or for Burial.

3. That at the consecrating of Bishops, blessing of Abbots, dedicating of Churches, a Cope, a Carpet, a Towel, a Basin be not demanded by force, nor taken unless freely offer'd.

1 *Lat. Tapete.* 2 *Lat. Baccinia.*

4. That no Monk, or Clergyman accept a Church, Tithe, or any Ecclesiastical Benefice at the hand of a Layman, without the Bishop's consent: That every such Donation be null, and the Offender liable to Canonical Punishment.

5. That no one challenge a Church, or Prebend by Inheritance from his Father, or appoint his own Successor to an Ecclesiastical Benefice: If it be done, we declare it of no Force, saying with the Psalmist, *My God make them as a Wheel, who have said, let us possess the Sanctuary of God as an Inheritance.*

6. That

* This is according to the LXX, and vulgar *Latin Bible*,

at London. MCXXVI.

Bible, and the *Hebrew* will very well admit of this Translation.

6. That Clergymen, who have Churches, or Benefices, be depriv'd of them, if they refuse to be ^b ordained (tho' their Bishops invite them to it) that they may live more at liberty.

^b That is to be made Deacons, or Priests. By this it is clear, that those in the inferior Orders were in this Age capable of Benefices. See *Corb.* 1127. 4.

7. That none be promoted to a Deanery, or Priory, but a Priest; none to an Archdeaconry but a Deacon.

8. Let none be ordained Priest, or Deacon but to some certain Title; if he be, let him not in-joy the Honour of his Order.

9. Let no Abbot, Clergyman, or Layman eject any one from a Church, to which he was ^c ordained by the Bishop, without the Bishops Sentence, under pain of Excommunication.

^c To Ordain, sometimes signifies, to institute.

10. Let no Bishop ordain, or pass Sentence on the ^d Parishioner of another: For no Man is bound by a Sentence pass'd by an improper Judge.

^d *Lat. Parochianum*, therefore the whole Diocese, as we now call it, was the Bishops Parish, and all the People his Parishioners.

11. Let no one receive to Communion him that is excommunicate by another; if any one do, let him be deprived of Christian Communion.

12. That no one Person have two ^e Honours in the Church.

^e That is, I suppose, two Dignities, or Benefices: See *Corb.* 1127. 8.

13. By

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13. By Apostolical Authority we forbid Priests, Deacons, Sub-deacons, and Canons to dwell in the House with any Woman, excepting a Mother, Sister, or Aunt, or such Women as are wholly unsuspected. Let the Offender upon Confession, or Conviction suffer the loss of his Order.

14. We forbid all Usury and filthy Lucre to all Clergymen: Let the Offender upon Confession, or Conviction be degraded.

15. We doom them to Excommunication, and perpetual Infamy, who practise Sorcery, Sooth-sayings, or Auguries, or that approve of them.

16. We forbid them that are related within the seventh Degree to be married; if any such are married, let them be separated.

17. That no regard be had to Husbands, or the Witnesses they produce, when they implead their Wives as too near akin to them.

As soon as these Canons, or Decrees were made, the Legate made haste toward *Rome*, and took along with him the two *English* Archbishops, *William*, and *Thomas*, that their Dispute concerning the Primacy might be ended in the Pope's Court of Audience.

A. D. MCXXVII.

Corboyl's *Canons* at Westminster.

Sir H. S. vol. 2. p. 35.

WILLIAM (Corboyl) *Archbishop* of Canterbury, and ^f *Legate of the Pope*, called a Synod at Westminster [and] ten English Bishops were there. Thurstan *Archbishop* of York sent his *Excuse*,

^f This was the first Archbishop who had the Title of *Legate of the See Apostolical*. It is evident, that his Predecessors

at Westminster. MCXXVII.

decessors exercised all the Authority that he did; they particularly call'd Synods of the two Provinces; but that this Authority might seem to be derived from the See of Rome, the Pope confers the empty Character of Legate on the Archbishop, and he was Legate both of England, and Scotland: For the Archbishop of York (whose Province included Scotland) was subject to him.

case, Randolph of Durham was taken sick on the Road. Simon of Worcester was beyond Sea visiting his Relations. Three of the Welsh Bishops were there. Of the Bishop of St. Asaph there is no mention: The Sees of London and Coventry were vacant. No notice is taken of any Abbots in this Assembly; vast multitudes of the Clergy, and Laity of all Ranks flock'd to the Council; some secular Matters were here decided, some others were delay'd, others could not be heard through the tumultuousness of the Rabble. The Synod sate three several Days.

The Decrees made by the general consent of the Bishops here follow.

1. **B**Y the Authority of Peter the Prince of the Apostles, and our own, we forbid Churches, Benefices, and Dignities to be in any wise sold, or bought. If the Offender be a Clergyman (tho' a Regular Canon, or Monk) let him be degraded, if a Layman let him be s out-law'd, and excommunicated.

s Here the Bishops assume to themselves a Civil Power, contrary to right and good Sense.

2. By Authority of the Apostolical See, we wholly forbid any Man to be ordain'd, or pre-ferr'd by means of Money.

3. We condemn all demands of Money, for admitting of Monks, Canons, or Nuns.

C

4. Let

MCXXVII. Corboyl's *Canons*

4. Let none, that is not Priest be made a Dean, none Archdeacon, that is not a Deacon: If any in the inferior Orders refuse at the Bishops Admonition to be ordain'd [Priest, or Deacon,] let him be deprived of the Dignity assign'd him.

^h See *Corb.* Can. 7. 1126. and observe that Heads of Monasteries were often called Deans in this Age.

5. We forbid Priests, Deacons, Subdeacons, and Canons to live with Women not allow'd by Law. But if they adhere to their Concubines, or Wives, let them be depriv'd of their Ecclesiastical Order, Dignity, and Benefice. If any such are ⁱ Parish Priests, we cast them out of the Choir, and Decree them to be infamous.

ⁱ Here is the first mention of a Parish Priest. And I have scarce found any thing more puzzling, than to get an exact Notion of his Office, for he was not either Rector, Vicar, proper Curate, or assisting Priest. 1. In this Canon he is distinguish'd from the beneficed Priest; for the Concubinary beneficed Priest was deprived, but the Parish Priest is for the same Crime cast out of the Choir only, that is, he was to cease from saying Mass, and the Hours with the rest of the Clergy, which was therefore his principal Privilege: And in most places, where this name occurs he is clearly enough distinguished from the Incumbent, except perhaps in the third Const. of *Osso.* and third of *Urbob.* which in this respect are but as one. 2. He was no proper Curate. Archbishop *Arundel* in his first Const. and *Islip* in his first Const. expressly distinguishes between Parish Priests, and them who attended the cure of Souls. *Peter Quevil*, Bishop of *Excester*, 1287. assigns to the Curate, whom he, and many others call the *Chaplain*, the same Salary that was then allow'd to Vicars, viz. five Marks *per ann.* but the Parish Priest is allow'd but forty Shillings. 3. He was none of those call'd Assisting, Auxiliary, or Soul Mass-Priests. For these last have by the same Const. of *P. Q.* an annual Salary of fifty Shillings assigned to them, and are there mention'd, as distinct in

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in Office from them. (See Sir *H. S.* vol. 2. p. 374.) Yet says *J. A.* the Parish Priest, according to the common Language of this Kingdom, ministers instead of the Rector (in his Gloss on the third Const. of *Otto*, pag. 11.) He was a Temporary Vicar, says *L.* on the eighth Const. of *Peckham*, 1281. p. 341. Since therefore they served for others, and yet were not proper Curates, nor assisting Mass-Priests, they must, I conceive, have been such Priests as officiated under Resident Incumbents, who were not either able, or willing to officiate themselves: They had not the cure of Souls; for that was in the Incumbent entirely, while he resided; and he perform'd no religious Office, but what the Incumbent was to have personally done, if he could, or would, and therefore was not an assisting Mass-Priest, whose proper business it was to say Masses for Souls. He who is now called a Reader in our great Parish Churches doth most resemble the old Parish Priest: For he acted entirely under the direction of the Incumbent, and performed only so much of the Service, as he could not, or was not disposed to perform himself. When the Incumbent was a Priest not perfectly disabled with Age, or overcome by an unactive Humour, his Business could not be great, and therefore *P. Q.* assigns him but three Marks, or forty Shillings for his Salary, and he supposes the Incumbents would think this too much, and therefore he bids them ease themselves, and serve the cure in Person. When the Incumbent was only in the inferior Orders, a greater burden must lie on the Parish Priest (and this was very often the Case) and then it was necessary that the Incumbent should have his Parish Priest at hand to do such Offices, as he himself could not; therefore it is very probable, that he had his Diet and Lodging with the Incumbent, and for this reason his Salary might be less than that of an assisting Priest. And it is observable, that the reason given by *P. Q.* for allowing him forty Shillings, *per ann.* is, lest he should beg, or do worse, or go in scandalous Apparel. Forty Shillings was a good Allowance for Cloaths, when Sergeants at Law, and the Attorney General had but two Marks *per ann.* each for their Robes. There are some Memorials in Bishop *Kenner's* Par. Antiq. p. 430, 431. which illustrate this. *John de Capellá* was about thirty three Years Incumbent in the Rectory of *Ambrosdon*,

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and yet but only an Acolyth, he died 1336: upon his Death the Rectory, as was before provided by the Popes Bull, was actually appropriated to a Religious House, and a perpetual Vicar instituted, and endowed. The Mansion assigned to the Vicar was that House, in which the *Parish Priest of that Church used to dwell*, as the words of the Endowment are. *John de Capella* being but Acolyth was obliged to have a Parish Priest to officiate for him. *John* was probably a married Clerk, for this was the most prevailing reason against taking superior Orders, that they must therupon dismiss their Wives. But on this consideration it was not so proper that the Parish Priest should dwell under the same Roof with him; therefore he accommodated him with another House, which was an Appurtenance of the Parsonage, and which was afterwards made the Vicar's Mansion.

I know but one Objection to this, viz. That *Arundel* seems to distinguish between Parish Priests, and Temporary Vicars in his first Const. but there the latter Title may be exegetical of the former. See the Const. it self. And *Temporary Vicar* sometimes denotes a proper Curate: And it is evident, that none were esteem'd proper Curates, but where the Incumbent was for the most part Absent, or Lunatic; and in this last case, tho' the Bishop is to assign the Curate, and the Coadjutor to manage and dispose of his Ecclesiastical Revenue: Yet the Coadjutorship and the Curacy are two distinct Offices.

J. A. in the place before cited does suppose, that the word Parish-Priest may be extended to the Rector, or Vicar by the Canonists; and if it be allow'd, that *Otto* so meant it, yet it must be imputed to him as an Italicism. The *English* Writers of those Ages did not so speak. The Articles of Enquiry for the Dioceses of *Lincoln*, 1230. [Sir *H. S.* vol.'2. p. 192.] agree with this account. Art. 1. Are any Rectors, Vicars, or Parish-Priests enormously illiterate? Art. 13. Is ther any Parish-Priest, who hath not sufficient Maintenance from his Rector.

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6. We require Archdeacons, and other^k Ministers, whom it concerns, to use their utmost diligence for the rooting out this Plague from the Church of God. If any neglect, or connive at it, let them be once, and twice corrected by the Bishop, and the third time more severely treated according to Canon.

^k By Ministers of the Church we may understand the Reeves of the Church, such Laymen, as by the Bishops Appointment took care of the secular Affairs of the Diocese.

7. That the Concubines of Priests, and Canons be expell'd out of the^l Parish, unless they are lawfully married there. If they are hereafter found faulty, let them be seized by the [^k *vide supra*] Ministers of the Church: And we charge, that they be not detain'd by any Power, great or [^ε *vide supra*] little, under pain of Excommunication; but that they be freely deliver'd to the Ministers of the Church, and brought under Ecclesiastical Discipline, or [^ε *vide supra*] Servitude at the Discretion of the Bishop.

^l It is not certain, whether this word be here meant in the modern Sense.

8. We forbid any Man to hold several Archdeaconries, in several Bishopricks under pain of Anathema. But let him stick to that he first took. Let Bishops forbid the Priests, Abbots, Monks, and Priors that are subject to them to take any thing to Farm.

9. We charge Tithes, as the Portion of God to be paid in full; and forbid Churches, or^m Tithes, or Ecclesiastical Benefices to be given, or taken by any Person without the consent of the Bishop.

10. That

^m Here the Reader will observe, that Tithes were
C 3 sometimes

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sometimes given without the Churches to which they belonged, that is certain Parcels, or Portions of Tithes were given oft from the Church, to whom they had of Custom been paid by the prevailing Power of some great Man, that was Patron of the Church; and these Portions of Tithes were for the most part given to Monasteries, or such like Religious Bodies: This gives an account of those ancient Deeds, whereby the Tithes of certain Vills, or Farms were granted to some Ecclesiastical Bodies long after all the Nation was brought under a civil Obligation of paying Tithes of all Products of the Earth: Many things prohibited by Canon were still practis'd: you have the like Prohibition. *Corb.* 4. 1126.

10. That no Abbess, or Nun use more costly Apparel, than such as is made of Lambs, or Cats Skins.

King Henry the First is said to have approved, and consented to these Decrees, and yet he certainly protected the Concubinary and married Priests from the fury of the Prelates. Matthew Paris says, the King eluded all these Provisions by the simplicity of the Archbishop: For the King drew a Promise from the Archbishop, that his Majesty should be intrusted with the Execution of these Decrees: And he executed them only by taking Money of the Priests, as a Ransom for their Concubines.

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Legatin Canons at Westminster.

Sir H. S. vol. 2. p. 41.

ALberic, Bishop of Ostia, Legate from Pope Innocent the Second, held a National Council at Westminster, in the Vacancy of the See of Canterbury, at which were present eighteen Bishops of diverse Provinces,

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Provinces, and about thirty Abbots, who all consented to the following Canons.

1. Following the Canonical Institutes of the *Lat.* Fathers, we forbid by Apostolical Authority, any Price to be demanded for Chrism, Oil, Baptism, Penance, Visitation of the Sick, Espousals of Women, Unction, Communion of the Body of Christ, or Burial, under Pain of Excommunication.

2. That the Body of Christ be not reserved above eight Days, and that it be not carryed to the Sick, but by a Priest or Deacon; in case of Necessity, by any one, but with the greatest Reverence.

3. That upon the Consecrations of Bishops, and Benedictions of Abbots, neither a Cope nor other Ecclesiastical Vestment be demanded, nor any thing else either by the Bishop, or his Ministers: And that upon the Dedications of Churches, no Carpet, Towel, Basin, or any thing but Canonical Procuration be required.

4. If a Bishop consecrate a Church in his ownⁿ Diocese by the Hand of another, let nothing extraordinary be demanded on that account.

ⁿ Here the word Diocese is used for the Bishops District. *Alberic* brought it with him from *Italy*.

5. Let no one accept a Church or Benefice, from the Hand of a Layman. When any Man takes Investiture from the Bishop, let him swear on the Gospel, that he has neither given nor promised any thing for it by himself, or by any other Person; else the Donation shall be null, and both the Giver and Receiver liable to Canonical Punishment.

6. The same with *Corb.* 1126. *Can.* 5.

7. We inhibit Clergymen, that without Letters from their proper Bishop, have been ordained

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by one that was not their Bishop, from Exercise of their Office: And let the full Restitution of them to their Order be reserved to the Pope, unless they will ° take a religious Habit.

° That is become Monks: For this was esteem'd a Life of Penance.

8. Following the holy Fathers, we deprive Priests, Deacons, and Subdeacons, both of their Office and Benefice, if they are guilty of Marriage or Concubinary, and forbid any to hear their Mass.

9. We lay under the same Sentence, those Clergymen who are Usurers, follow filthy Lucre, or do publick Business for secular Men.

10. Let him be struck with *Anathema*, that kills a Clerk, Monk, Nun, or any Ecclesiastical Person, or that imprisons, or lays wicked Hands on such. Let none but the Pope give him Penance at the last, unless in extreme Danger of Death. If he die impenitent, let his Body remain unburied.

11. We charge, that if any Man Violently take away the moveable or immoveable Goods of the Church, he be excommunicate, unless he repent upon Canonical Warning.

12. We

p King *Stephen*, who now reigned, had upon his Advancement to the Throne by a Charter which you may see in Sir *H. S.* vol. 2. p. 38. made very fair promises to the Church, especially as to their Estates, that Prelates and others in Holy Orders should quietly enjoy what the Conqueror left them, and what they had acquir'd since, that they might dispose of their Goods by Testament, and that vacant Sees should be under the Guardianship of the Clergy of that Church to which the deceased Bishop belonged as to Temporal Matters as well as Spiritual. But the King soon forgot his Promise, which greatly provoked the Churchmen against him;

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him; and 'tis probable, that this Canon was directed against the Evil Instruments who then committed great Ravage on the Church. *William Martell* (in *France*) a notable Courtier was the next Year by name excommunicated in a Synod, on this account.

12. We by Apostolical Authority, forbid any Man to build a Church or Oratory, upon his own Estate, without his Bishop's License.

13. Here we allege the Authority of a Pope *Nicolas*, who says, "Since the Soldier of Christ, and the secular Soldier differ from each other, it becomes not a Soldier of the Church to bear secular Arms;" for Effusion of Blood can scarce be avoided in this Case: Farther, as it is abominable for Laymen to say Mass, and consecrate the Sacrament; so it is ridiculous for a Clergyman to carry Arms, and fight in Wars, for *St. Paul* says, *no one that is a Soldier to God, intangles himself with the Affairs of this Life.*

¶ See Corp. Jur. Canon. Distinct. 50. c. 5.

14. We add the Decree of Pope ^r *Innocent*, that "Monks who have been long in a Monastery, ought not to recede from their former way of living when they become Clergymen": They must continue now they are Clerks what they were before, and not lose what they had before their Advancement.

¶ See *ibid. Causa*, 16. *Quaest.* 1. c. 3.

15. We forbid Nuns under Pain of *Anathema*, to use Particolour'd ^r *Grisian* Sable, Marten, Ermin, Beaver Skins, or Golden Rings, or to wreath or curiously set their Hair.

¶ Lat. *Griffis*, Furs of the *Gris* *petit* a small French Animal so called, which some say is grey, others that it is spotted.

16. We

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16. We charge all to pay the Tithe of all their Fruit, under Pain of *Anathema*.

17. We ordain, That if Schoolmasters hire out their Schools to be ^t govern'd by others, they be liable to Ecclesiastical Punishment.

^t I read *regenda*, not *legenda*.

In this Council the Election of an Archbishop to the See of Canterbury, was agitated, and within a few Weeks after, Theobald was consecrated: Some do expressly say, that he was elected by the Bishops in this Council, at the Instigation of the King; yet Henry Bishop of Winchester, Brother to King Stephen, being Legate à Latere from the Pope, held several National Councils under that Character. In one of these the Archdeacons are said to have been present, A. D. 1142, and particularly that the Legate had private Conference, first with the Bishops, then with the Abbots, lastly with the Archdeacons. And the Legate in a Speech made in this Council, affirmed, that the chusing and ordaining of a King, did of right belong principally to the Clergy, Sir H. S. vol. 2. p. 45. The chief Occasion of these Synods, was the unsettled State of the Nation by reason of Wars between Maud the Empress, and Stephen, who had the Right of Possession. No Canons or Constitutions were made in any of these Synods called by Henry of Winchester, excepting in the last, which here follow.

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Legatin Canons at Winchester.

Sir H. S. vol. 2. p. 47.

HENRY Bishop of *Winchester*, the Pope's Legate à Latere, held a Council in Presence of King *Stephen* at *London*, in which it was with general Consent ordain'd,

1. That

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1. That none who ^u violated a Church, or Churchyard, or laid violent Hands on a Clerk, or Religious Person, should be absolved by any, except the Pope. *Lat.*

^u The Church, or Churchyard were violated, by fighting, or shedding Blood there, or by seizing any Goods, or Person within the Precincts of Holy Ground. The present Wars caused much Profanation (if I may so say) of this sort: But it is probable that the Legate, and Prelates had a particular Eye to *Aubry de Vere*, who was charged three or four Years before this with an Intention to seize this Legate, and all the Bishops then met in Council in the Church at *Winchester*: And *Aubry* did not deny, but publickly in their presence justify'd his doing of it, at the Command of his Master K. *Stephen*, tho' he was disappointed in his Design.

2. That the Plough, and Husbandman in the Fields, should enjoy the same Peace, as if they were in the Churchyard.

They excommunicated all that opposed these Decrees, with Candles lighted: And thus, says *Hoveden*, the Rapacity of the Kites, was restrained.

This Henry of Winchester is said first to have introduced the Practice of appealing to Rome; and on this account as well as others, deserved very ill of this Church and Nation.

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PREFACE. *Articles of Clarendon.*

AFTER Theobald had sat Archbishop twenty two Years, Thomas Becket, King Henry the Second's Chancellor, was elected by the Monks of Christ Church, and accepted, and declared by the Bishops

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*Bishops of the Province. This was done in a kind of Parliamentary Assembly, 1161. In the Year 1163, he and four of his Suffragans, with four Abbots by the King's leave, went to the Synod of Tours, (to which also Thurstan of York sent his Abbot of Fountain) where Pope Alexander the Third, and seventeen of his Cardinals were personally present: The Archbishop came home sooth'd with the Favours of the Pope (who gave him a Chair at his own Right Hand) and warmed with a Speech made by Arnulph Bishop of Lyseux, in behalf of the Liberties of the Church; from this time forward would not pay that Submission to the Civil Courts which he had done before. Hereupon the King calls all the Archbishops and Bishops to Westminster, and the main Point proposed to them was, Whether they would observe the ancient Customs of the Kingdom, or rather the Customs used in the time of the King's Grandfather, King Henry the First, (for they were call'd *avix consuetudines*) [and] they promised to do it, saving their Order. This did not satisfy the King, whose Indignation they feared; therefore Becket goes to him at Woodstock, and promised he would comply without adding any such Salvo: The King required, that this Promise should solemnly be made before all the Great Men of the Kingdom, and therefore call'd an Assembly of them to Clarendon: There the Archbishops and Bishops did accordingly swear to observe these Customs. But when afterwards these Customs were drawn in the following Form, and they were required to set their Seals to them, the Archbishop absolutely and finally refused it, and retired beyond Sea, and found Protection in France and Italy, and from thence fulminated his Anathemas against the King, and his Adherents, and raised a violent Storm in the English Church; for which his Monks of Canterbury, and all his Kindred were most cruelly treated, and he himself, soon after that was over, perished in
the*

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the Calm. The principal Cause of all these Commotions, were the three Books of Decrees which Gratian was compiling under the Direction of Pope Eugenius the Third, who made Henry of Winchester, his Legate here, and excommunicated King Stephen for his harsh Treatment of Archbishop Theobald. These Decrees were afterwards publish'd by that Pope, and publickly read in the Universities. Theobald sent Thomas Becket, while he was his Chaplain, to Bononia, on purpose to be well instructed in this new Learning.

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This was clearly a Parliamentary Assembly.

Sir H. S. vol. 2. p. 63.

AT a Council holden at *Clarendon*, in the Presence of King *Henry* the Second, in which *John* of *Oxford*, the King's Chaplain, presided by Order of the King, a Recognition was made of the Customs and Liberties of the King's Ancestors (particularly of his Grandfather *Henry* the First) by the Archbishops, Bishops, Abbots, Earls, Barons, and Great Men of the Kingdom, and which ought to be observed by reason of the Disputes which often happen between the Clergy, and the Justices of the King, and of the Great Men. The * Articles here follow. *Lat.*

1. If

* It may not be improper to observe, that one half of the Inconveniencies, which these Articles were intended to cure, and of the Disputes which now grew between the Ecclesiastical and Secular Powers took their Rise from the Separation made by *William* the Conqueror between the two Jurisdictions.

1. 15. For ther could be no just Objection either from

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from the Clergy, or Laity against trying Causes of the Right of Patronage, or of Debt in a Court, where both the Bishop, and the King's chief Officer in the Law sat as Judges.

3. 9. Clergymen had no reason to decline the Temporal Court, while their Ordinary sat there together with the Civil Judge; nor was ther occasion for them to appear in two several Courts to answer for the same Fact.

5. 6. 10. 13. Ordinaries could have no pretence for accusing Men upon Hearsay, or for taking Security of Excommunicates for their future good Behaviour, nor want means to bring Witnессes to testify against great Offenders, or to have any Delinquent made to appear before them, while they had the Countenance, and Assistance of the chief Civil Magistrate under the King to draw all Offenders to Justice, that could be found, and all that could be thought conscious to testify against them.

The second Complaint took its Rise from the new *Norman* Practice of impropriating Benefices. By their new Tenure, Prelates were made liable to new Secular Services, unknown to their Predecessors, which occasioned the eleventh Article. This gave the King a Handle rigidly to insist on the Homage to be done to him for their Temporalities, and to the Guardianship of the said Temporalities in a vacancy, which caused great Mischief to their Lands and Tenants; and to his overruling the Elections, all which are touch'd in the twelfth Article.

Other Inconveniencies, against which the King endeavoured to guard himself, were Appeals to *Rome*, introduced in the last Reign by *Henry of Winchester*. This he designed to prevent by Article the fourth, and eighth: And in the next place as to ordaining Slaves without consent of their Lords, this was a Corruption of the *Norman* Bishops condemned in all Ages of the Church. But as to this Point it is but just hinted in the sixteenth Article. The protecting the Goods of Felons, and the Persons of felonious Clergymen (against the first whereof the King declares in the fourteenth Article; against the latter he would have made a seventeenth Article, if he could have got *Becket's* consent) were certainly Proofs, that the Bishops were now earnestly contending to make God's House a Den of Thieves. The seventh Article which exempts Courtiers from being excommunicate without

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without the King's consent, shews that this wise Prince did not think such Bishops at these fit to reform his Peers, and Family. He would never else have protected his Servants against the wholesome Discipline of primitive Pastors.

1. If Controversy arise concerning the Patronage of Churches, either between Laymen, or between Laymen and Clergymen, or between Clergymen, let it be tried and determined in the King's Court.

2. Churches belonging to the Fee of our Lord the King, cannot be impropriated without his Grant.

3. Clergymen being accused of any Matter, upon Summons from the King's Judge, are to come to make answer there to whatever the King's Court shall think fit; and likewise to the Ecclesiastical, to make answer to whatever shall be there thought fit; but so, that the King's Justice may send to the Court of Holy Church, to see how Matters are there carried; and if a Clerk be convicted, or confess, the Church ought not any longer to protect him.

4. It is not allowed to Archbishops, Bishops and Parsons, to depart the Kingdom without the King's License; and if they do, they shall give the King Security, if he so pleases, that they will procure no Evil to the King or Kingdom, in going, returning, or staying.

5. Excommunicates ought not to give Security, or to make Oath y for the remainder, but only to give Security and Pledge for standing to the Judgment of the Church, that they may be absolved.

6. That

y That is, I conceiye, for ever after. Ordinaries, it should seem were not content to take Oath, or other Security of Offenders to stand to the Judgment of the Church

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Church as to the Penance to be imposed for the Crime for which they were now impleaded, but demanded some Pledge, or Security that they would never after be guilty of Obstinacy. This is what the Article forbids. By this it is evident, that Criminals were now absolved before they had done Penance; for the Security was given for this doing Penance, after they were absolved.

6. Laymen ought not to be accused but by certain lawful Men, and Witnessees, in the Presence of the Bishop (yet so as that the Archdeacon do not lose his Right, nor any thing accruing to him thereby). If they who are suspected, be such as no one will or dare accuse, the Sheriff at the Bishop's Request, shall cause twelve lawful Men of the ² Vicinage, or Village, to take their Oaths, that they will discover the Truth according to their Conscience.

² Here is a word wanting in Sir H. S. it is *de Infueto Bininus*, perhaps it ought to be *Vicineto*. So *Somm.* read it.

7. That none of those who hold of the King *in Capite*, nor the Officers upon his Demesnes be excommunicate, nor any of their Estates laid under an Interdict, till Application have been made to our Lord the King, if he be in the Kingdom; or if he be not in the Kingdom, to his Justice, that he may deal with him according to right; and so what belongs to the King's Court be there determined, and what belongs to the Ecclesiastical Court be there determined.

8. If Appeals arise, they ought to proceed from the Archdeacon to the Bishop, from the Bishop to the Archbishop, and lastly, to the King (if the Archbishop fail in doing Justice) so that the Controversy be ended in the ² Archbishop's Court by
a Precept

² So of old the Christian Emperors used to grant a
second

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second Hearing (to such as thought themselves wrong'd by a former Sentence) before Bishops assigned by himself: And this is much more agreeable to the primitive Scheme, than for Kings to assume to themselves the determining of Ecclesiastical Causes, or assigning a Court of Delegates, half of the Clergy, half of the Laity. *Vide Can. Ant. 12.* When the Church assum'd the Cognizance of secular Matters, no wonder that the King meddled with Causes Ecclesiastical.

a Precept from the King, and so that it go no farther without the King's Consent.

9. If a Challenge arise between a Clerk and Layman, or *vice versâ*, concerning any Estate which the Clerk wou'd have to be held in *Frank-almoyn*, and the Layman to be a Lay Fee, it shall be determined by the award of twelve lawful Men before the King's Justice, whether the Estate be in *Frank-almoyn*, or in Lay Fee. If the Award be, that it is in *Frank-almoyn*, the Plea shall be in the Ecclesiastical Court; but if in Lay Fee, ^b then unless both claim their Tenure under the same Bishop, or Baron, the Plea shall be in the King's Court; but if both claim under the same Lord of the Fee, the Plea shall be in his Court: But so that on the account of such Recognition, he that was first seiz'd of any City, Castle, Burrough, or Royal Manner, shall not lose his Seisin.

^b *Sommer*, whom I follow, thus reads this part of the Article; *Nisi ambo tenementum de Episcopo eodem vel Barone advocaverint, erit placitum in curiâ Regis, sed si uterque advocaverit de feodo illo eundem Episcopum vel Baronem, &c.* as in *Spelman*.

10. If one that is cited for any Crime, for which he ought to make Answer to the ^c Archdeacon or Bishop

^c From this it appears that Archdeacons were now allow'd a Jurisdiction, tho' it appears by the sixth Article, that in criminous Cases the Information was to be

D

made

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made to the Bishop himself, he at least was in Person to hear the Depositions of the Witnesses. For it was justly supposed, that his Presence rendred the Oaths more full of Awe, and Solemnity. Probably the Archdeacons did now in other parts of the Proceedings perform the Office of Judges in Ecclesiastical Causes. Officials were not yet in use; yet Archbishop *Becket* soon after this mentions one *Robert*, Vicar to *Gilbert* Archdeacon of *Canterbury*, both which he had excommunicated. Sir *H. S.* vol. 2. p. 80.

Bishop, and will not make Satisfaction upon their Summons, they may lawfully put him under ^d Interdict; but they ought not to ^e excommunicate him till Application hath been made to the King's chief Officer of the Vill, that he may by Law bring him to Satisfaction. If the Officer fail, he shall be fined at the King's Pleasure, and from that time the Bishop may proceed against him by the Law Ecclesiastical.

^d That is probably suspend him from Entrance into the Church: The greatest part of Offenders were liable to no other Interdict.

^e This King, and his Counsellors were of the same Sentiment with our late Convocations, that Excommunication ought not hastily to be passed in case of Contumacy, but some other legal Method be provided to bring the Party to reason. In truth this Article goes farther than our late Convocations. For in criminal Cases Excommunication for Contumacy in not appearing was not intended to be prevented by the late Plan publish'd by Bishop *Gibson*, as it is here by the King and his Council.

11. Archbishops and Bishops, and all the ^f Parsons of the Kingdom who hold of the King *in Capite*, are to look on their Estates as Baronies, and on that account to be responsible to our Justices

^f In this Age the word *Parson* was first used for one in Holy Orders: But my Reader will observe, that it
1 signified

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signified a Clergyman of Note, or Eminence, as appears by these Articles; yet sometimes it was given to inferior Priests.

stices and Officers, and to execute and perform all Royal Customs, and ought as other Barons, to be present at judicial Proceedings in the King's Court, till they come to Deprivation of Life or Member.

12. When an Archbishoprick, Bishoprick, Ab-bacy, or Priory is vacant, it ought to be in the King's Hand, and he shall receive all the Rents and Issues, as of his own Demefnes: And when the Church is to be provided for, the King is to send his Mandate to the chief Parsons of that Church, and the Election ought to be made in the King's Chapel, and by the Advice of the King's Parsons whom he shall call for this purpose: And the Elect shall do Homage and Fealty to the King as to his Liege Lord, for his Life and Members, and earthly Honour, (with a saving to his Order) before he be consecrated.

13. If any Great Men of the Kingdom do violently oppose the Archbishop, Bishop, or Archdeacon in doing Justice to himself, and in Things that properly belong to him, the King ought to vindicate him; and if any one oppose our Lord the King in his Right, the Archbishops, Bishops, and Archdeacons ought to compei him by their Law, to make Satisfaction to the King.

14. The Chattels of those who have committed capital Crimes, are not to be kept in the Church or Churchyard, against the King's Justices: For they are the King's, whether in the Church or out of it.

15. Pleas of Debt are in the King's Cognisance, whether due upon ^sFaith given, or not.

^s That is upon solemn Promise, or Oath: For in such Cases the Ecclesiastical Judges claimed the Cognisance or the Debt, as will hereafter appear.

D 2

16. The

MCLXIV. *Articles of Clarendon.*

16. The ^h Sons of Tenants in Villainage, ought not to be ordained without Consent of the Lord on whose Lands they were born.

^h The Reason is evident, *viz.* Because these were deem'd a part of the Stock belonging to the Land, and by ordaining such a one the Landlord lost a Slave: For when he was once ordained, no Man dar'd strike him under pain of Excommunication. The Primitive Church did not allow Slaves to be ordain'd without Consent of their Masters, because they would not otherwise have been at liberty to attend the Offices of the Church. See *Can. Apost.* 73. &c.

The King also decreed, that Bishops should degrade Clerks in Presence of the King's Justice, whom they had found guilty of any publick Crime, and then deliver them to the King's Court to be punish'd. On the other side, the Archbishop thought that when they were degraded, they should not be punish'd by a Lay Hand, because ⁱ this seems to be a double Punishment for a single Crime.

Becket

ⁱ It is true this Reason is given in some ancient Canons why Clergymen should not be both deprived and excommunicated for the same Crime; but not as a Reason, why he that has committed a Crime deserving Death by the civil Laws should not suffer as well as others. The Occasion of the King's offering this Article was as follows; *Philp de Broc*, Canon of *Bedford*, had committed Murder, and being brought before the King's Justice for it, instead of humbling himself, he insulted the Judge, yet the King could not prevail on the Council to pass this Article; but was content to see him deprived of his Canonry, and banish'd for two Years. I cannot but upon this Occasion declare my Sentiment, that a Clergyman notoriously guilty of any capital Crime, is so far from having any Title to any peculiar Mercy, that he deserves, if it were possible, doubly to die for it. While the Lives of Murderers were generally ransom'd by a Wergild, and this Practice settled by Law, and therefore

Articles of Clarendon. MCLXIV.

therefore few were executed for this Crime, it did not seem a Grievance, that Clerks guilty of Murder were not put to Death, but only condemned to Penance during Life, in the Bishop's Prison, or in some Monastery: For the Lay Murderer by paying his Weregild was dismissed without any such violent Penance. But now since Laymen lost their Lives for Murder, it justly appeared a Grievance, that Orders should protect Men in their Crimes. I know not when Murder was first punish'd universally with Death, but it seems most probable, that this practice first prevailed toward the latter part of King Henry I's Reign, and was therefore now of about forty Years standing.

Becket *Archbishop* of Canterbury, never approved these Articles, and thereby incur'd the King's Displeasure, and consulted his own Safety by living abroad for seven Years. And tho' he returned to Canterbury at the End of this Term, yet the King shew'd him no Countenance, and he was killed by four armed Courtiers as he was performing his Devotions at the Altar of the blessed Virgin in his own Church. A Year or two after, the King calls a Council at London, where the Monks of Canterbury appeared, and chose Robert Abbot of Bec in Normandy, for their *Archbishop*; and tho' the Provincial Bishops consented to the Election, yet Robert with a primitive Piety, refused to accept it; upon which they proceeded to choose Richard formerly a Monk of Canterbury, then Prior of Dover. And at the same time in Presence of the Council, the Pope's Letters for Canonizing Becket, and keeping a Festival in Honour to him, were publicly read. This *Archbishop* constituted three Archdeacons in his Diocese, which of old had, and now hath but one; yet some say it was Baldwin did this. Albertus and Theodine, two Cardinals, came from Rome to inquire into this Murder, and the ^k King bearing

^k King Henry II. upon this, and other occasions paid a great deference to the Pope, yet 'tis evident, he did

MCLXIV. *Articles of Clarendon.*

It not out of blind Obedience, but for other prudential Reasons, as appears by his Speech to *Hilary* Bishop of *Chichester*; for when that Prelate was magnifying the Popes Authority, " You argue, says the King, with " much Sophistry for the Power of the Pope, *which was* " granted him by Men, against the Royal Dignity given " to me by God." See *Spelm.* vol. 2. p. 57, 58.

bearing that they were arrived in Normandy, immediately cross'd the Seas from Ireland to England, and at the Place appointed by the Cardinal Legates, did publicly by Oath upon the Relicks of certain Saints, and on the Gospels, purge himself from the Imputation of having commanded those four Men to kill the Archbishop; nay, he declared himself much afflicted for his Death; but because he apprehended, that the Indi nation which he had expressed against Becket, might give occasion to these Assassins to commit the bloody Fact: And because those Malefactors had escaped from Justice (tho' others say, that by the Law, as it then stood, the Murderer of a Priest was privileg'd from suffering Death, which yet scarce seems credible;) therefore he swore to perform the following Satisfaction before he was absolved, viz. 1. That he would not withdraw his Obedience from Pope Alexander, and his Successors (for the King had threatened formerly to join with Victor the Antipope) so long as he was treated like a Catholick Prince. 2. That Appeals might be made from England to the See of Rome, so that if the King had any Suspicion of the Appellors, he might cause them to swear, that they meant no hurt to him or his Kingdom. 3. That he would for three Years wear the Cross, and go to Jerusalem to fight for the Holy Land, beginning next Summer, except the Pope dispensed with him; but his Expedition might be deferr'd, for so long a time as he thought fit, to fight against the Sarazens in Spain. 4. That he should give so much Money to the Templars, as they should think sufficient, to maintain

Richard's Canons. MCLXXV.

tain 200 Men to defend the Holy Land for one Year. 5. That he should pardon and call home all that were banish'd on account of Archbishop Becket, and restore all things taken from the Monks of Canterbury, and make them in as good Condition as they were the year before that Archbishop left England. 6. That he would give up all the Customs against the Church, introduced in his Time.

A. D. MCLXXV.

Archbishop Richard's Canons.

Sir H. S. vol. 2. p. 103.

Richard, Successor to Thomas Becket in the Archbishoprick of Canterbury, with eleven English Bishops beside himself, and the Bishop of St. David's, and four Abbots, being together in London, there celebrated a Provincial Council. King Henry the Second being just returned from Normandy with his Son Henry, who was crowned King by his Father's Order, they were both of them present in the Assembly, and consented to what was done.

The Archbishop opened the Synod, by intimating that he rather chose to adhere to the Rules of the ¹Fathers, than to make new ones, and that he had thought fit to have certain Heads published and observed by those of his Province; and that they who opposed the Statutes of this Synod, were to be deemed Transgressors of the sacred Canons.

1. *From*

¹ Every one of the following Canons excepting the 6th and 9th, is attributed to some Pope or Council, but they seem to have been transcribed with great Latitude, or Negligence: The first for Instance is said to be Alexander the Third's, who was at that present Pope, and eagerly espoused by our King and Church, in Opposi-

MCLXXV. Richard's *Canons*.

tion to *Victor*, who was his Rival; and *Roger* to whom this Epistle is said to be written, did at this time sit, in the See of *Worcester*, and was present in this Synod, and ther are several Letters in the *Corp. Jur. Can.* directed to our *English* Bishops on this Head, and one in particular to the Bishop of *Worcester*. (*Decretal. Greg. 9. l. 1. Tit. 17. c. 4.*) but in words quite different from those here cited: The same may be said of most of the other Canons; therefore I have not been so punctilious, as to refer my Reader to them, unless in some special Cases. See *Const. of Richard Wetherhed*, A. D. 1229.

1. *From the Decretal Epistle of Pope Alexander the Third, to Roger Bishop of Worcester.*

IF any Priest, or Clerk in ^m Holy Orders, that has a Benefice, publickly keeps a Concubine, and does not dismiss her upon a third Admonition, let him be deprived of Office and Benefice: Any under Subdeacons must keep their Wives, if they are married; except by mutual Consent they chuse to be ⁿ religious: But they are not to be Beneficed, if they live with their Wives. But they who have married since they were Subdeacons, are to leave their Women whether they consent or not. And ^o let not Sons be instituted into their Fathers Benefices, unless some one succeed between them.

^m That is Subdeacon or any Order above that: For the other Orders were *Inferior*.

ⁿ That is Monks, or Recluses; *qui ad conversionem* (not *conversacionem*) *veniunt*. Somn.

^o Yet *Clement* the Third in the Year 1189. allowed all Sons of Clergymen lawfully begotten to succeed their Fathers. His Decretal is extant in the first Book. *Tit. 17. c. 12.*

2. *From the Third Council of Carthage.*

Let not Clerks in [^m *vide supra*] Holy Orders, go to eat and drink in Taverns, nor be present at Drinking Bouts, unless in their Travels. Let the Offender desist, or be deposed.

2.

3. *From*

Richard's *Canons*. MCLXXV.

3. *From the Third Council of Toledo.*

Let not a Man in [^m *vide supra*] Holy Orders, be concerned in Judgments concerning Blood; nor by himself, nor by any other, inflict Deprivation of Member. Let the Offender be deprived of Office and Place. We threaten *Anathema* to that Priest who takes the Office of Sheriff or Reeve.

4. *From the Council of Agde.*

Clerks that wear long Hair, are to be clip'd by the Archdeacon even against their Will. Nor may they use any Cloths or Shoes but what are decent. He that does not mend upon Admonition, let him be subject to Excommunication.

5. *From diverse Decrees of Urban, Innocent, the Councils of Calcedon and Carthage.*

Because Clerks for their Ignorance, Incontinence, Defect of Birth, Title or Age, despairing of [higher] Orders from their own Bishops, procure, or pretend themselves to be ordained by foreign Bishops, and so bring Seals unknown to their own Diocesans; we therefore annul their Orders, forbidding with the Terror of *Anathema*, any to admit them to the Exercise of their Function. Let any Bishop of our Jurisdiction, who knowingly ordains or receives such a Clerk, be suspended from conferring that Order to which he thus admitted the Foreigner, till he makes due Satisfaction.

6. *Item.*

Since the Church of God ought to be a House of Prayer, not a Den of Thieves, therefore we forbid under Terror of *Anathema*, all secular Causes concerning Blood and corporal Punishment to be tried in Churches, or Churchyards; for they are Sanctuaries

MCLXXV. Richard's *Canons*.

Sanctuaries for the Guilty, not Courts of Blood and Cruelty.

7. *From the Synod of Triburia, or Trevur.*

The holy Synod detests Simoniactal Heresy, and ordains that nothing be demanded for Orders, Chrism, Baptism, Extreme Unction, Burial, Communion, nor the Dedication of a Church; but that what is freely received be freely given; let the Offender be *Anathema*.

8. *From the Decree of Urban the Pope.*

Let no Prelate exact, or take by way of Bargain, any Price for the Reception of any Monk, Canon, or Nun, who enters into a religious Life. If any do, let him be *Anathema*.

9. *A new Decree,*

Let none transfer a Church to another, in the Name of a Portion, or take any Money, or covenanted Gain for the Presentation of any one. He that is guilty by Conviction, or Confession, is for ever deprived of the Patronage of that Church by the King's Authority and ours.

P That is as a Portion from a Father, or Grandfather to his Son, or Grandson.

10. *From the Decrees of divers Fathers.*

We forbid under Terror of *Anathema*, Monks or Clerks to trade for Gain, and Monks to hire Farms either of Clerks, or Laymen, and Laymen to take Ecclesiastical Benefices to farm.

11. *From the Council of Meaux.*

Let none that would appear to be Clerks, wear or bear Arms, but make their Manners and Cloaths suitable to their Profession; or else be degraded as despisers of the Canons, and of Ecclesiastical Authority;

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Authority; for none can be a Soldier to God, and the World at once.

12. *From the Decree of Pope Alexander the Third, sent to the Bishop of Norwich.*

If Vicars in contempt of the Faith, and Oath made to the Parsons, lift themselves up against them, assuming to themselves a Parsonage, and be legally convicted of it, or confess it; let them no longer be allow'd to officiate in the same Bishoprick.

13. *From the Council of Rouen.*

All Tithes of Land are the Lords. Let all, who are unwilling to pay them be thrice admonish'd, according to the Precept of the Pope, to yield the Tithe of Grain, Wine, Fruits of Trees, young Animals, Wooll, Lamb, Butter, Cheese, Flax, Hemp, and whatever is yearly renewed, and be laid under *Anathema* if they do not amend. Let the Imperial Sanction check the audacious by condemning them in Cost, and by other means.

Agreeably to the sacred Institutes we charge, that in Suits between Clerks concerning pecuniary Matters, he that is cast be condemned in Cost, I leave him that is insolvent to be punish'd at the Bishops Discretion.

14. *From the Decree of P. Pelagius.*

But 9 ten Prefaces are found in the sacred Catalogue, one for *Low Sunday*, a second for *Ascension-day*, a third for *Pentecost*, a fourth for *Christmas-day*, a fifth for the Apparition of our Lord,
a sixth

9 There are but nine Prefaces mentioned in the Decretal of P. Pelagius, *Distinct. 1. de consecr. c. 75.* that for the Blessed Virgin is there omitted. From this we may learn, that the superstitious Worship of the Virgin was not ripen'd till about this Age.

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a sixth for the Apostles, a seventh for the Holy Trinity, an eighth for the Cross, a ninth for Lent Fast only, a tenth for the Blessed Virgin. By Authority of this Decree, and of Pope *Alexander* we forbid any more to be added.

15. *From the Decree of Pope Julius.*

We forbid the Eucharist to be sopt, as if the Communion were by this means more entirely administred. *Christ* gave a Sop only to that Disciple whom he pointed out for a Traitor, and that not to denote the Institution of this Sacrament.

16. *From the Council of Rhemes.*

We charge that the Eucharist be not consecrated in any Chalice not made of Gold, or Silver; and that no Bishop bless a Chalice of ^r Tin.

^r Yet this Canon, as it now standeth in the *Corpus Juris Canonici* allows Tin, though not Brass, to poor Churches. See *de consecr. Distinct.* 1. c. 45.

17. *From the Decrees of Pope Ormisdas.*

Let no faithful Man of what degree soever marry in private, but in publick, by receiving the Priests Benediction. If any Priest be discovered to have marry'd any in private, let him be suspended from his Office for three Years.

18. *From the Decrees of Pope Nicolas.*

Marriage is null without consent of both Parties: They who marry Boys and Girls do nothing unless both consent after they come to age of Discretion: Therefore we forbid the Conjunction of those who have not both attained the Legal, and Canonical Age, unless ther be an urgent necessity for the good of Peace.

Roger

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Roger, *Archbishop* of York, would not be present at this Council; but, by some of his Clergy that were there, claimed the Right of having his Cross born before him in the Province of Canterbury: They claimed also the *Dioceses* of Lincoln, Chester, Worcester, and Hereford, as *Limbs* of the Province of York. And because these Claims were not allowed in the Council, they appealed to the See of Rome: As also because their Complaint against the *Archbishop* of Canterbury for cursing the Clergy of St. Oswald in Gloucester (because they would not submit to him as their Metropolitan) was rejected.

Farther in this Council the Clergy of St. Asaph *Diocese* desire, that their Bishop Godfrey might be restored to them. He had been driven by the Fury of the Welsh to seek for Bread here in England: And the King had given him the Guardianship of the vacant Abby of Abingdon: And he now rather chose to continue there, than to return to Wales; so another named Adam was by the *Archbishop* consecrated to the See of St. Asaph.

In another Council assembled at Winchester the same Year the King endeavoured to reconcile the two *Archbishops*; and so far prevailed, that they consented to refer their Cause to the *Archbishop* of Rouen, and some other French Prelates: But neither did this prove an effectual cure.

The next Year Cardinal Hugo, or Hugezun, was sent from Rome to determine these Disputes; but he left it as he found it; only pronounced in favour of the *Archbishop* of York as to his right to St. Oswald's in Gloucester. The Articles of Clarendon were renewed also in a Council holden at Northampton, at which this Cardinal was present. And the King had there leave given him by the said Cardinal to implead Clergymen in temporal Courts, if they presumed to kill, or hunt any Deer in his Parks, or Forests: Which the Historians observe to be the first Instance

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Instance of Laymens Authority over the Clergy allow'd by the See of Rome.

There was likewise another Council bid at Westminster the same Year by the same Cardinal, at which there was a great appearance of Prelates, and Clergy; but when Roger Archbishop of York observed, that the Archbishop of Canterbury was plac'd at the right Hand of the Legate, and the left Hand assigned to him, he thrust himself into the Archbishop of Canterbury's Lap; hereupon the Servants of Canterbury, and even the Bishops themselves (says Hoveden) assaulted York, threw him flat on the Ground, trampled upon him, and rent his Cope, at which the whole Council broke up, the Cardinal himself withdrew in great hurry and confusion, and they never came together again; the two Archbishops venting their Indignation against each other by Complaints to the King and mutual Appeals to the Pope.

In a Pacification made this Year between the two Kings of England and Scotland, one Article was, that all Scotch Bishops should be consecrated by the Archbishop of York, and subject to him.

See here a very observable Monument of the Knight Errantry of this great King, and of his Subjects both of the Clergy, and Laity, both in the Island of Great Britain, and on the Continent.

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King Henry the Second's Crusade.

Sir H. S. vol. 2. p. 117.

THE King [Henry II.] had a Conference with the King of France, the Archbishops, Bishops, Earls, and Barons of their Kingdoms were there present. The Archbishop of Tyre was there, who being filled with the Spirit of Wisdom, marvelously

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vehemently preached the Word of God before the Kings and Princes, and converted their Hearts to the taking of the Cross; and they who were before Enemies were on that Day made Friends by his preaching, and the divine Co-operation; and received the Cross from his Hand, and at the same Hour the sign of the Cross appeared over them in Heaven: At the seeing of which Miracle great numbers crouded in to take the Cross. And the said Kings agreed upon a distinction for their own Crosses, and those of their Nations: The King of *France*, and his Nation took red Crosses, the King of *England*, and his Nation white ones, and *Philip* Earl of *Flanders*, with his Nation, green. And so every one went into his Country to provide Necessaries for himself, and his Voyage.

1. King *Henry* after his taking the Cross went to *Mans*, where with the Advice of his Counsellors, he ordain'd, that every one should give the Tenth of his Income and Moveables this Year for the Succour of the Land belonging to *Jerusalem*, excepting the Arms, and Horses, and Apparel of the Knights, and the Horses, Books, Vestments, Cloths, and Ecclesiastical [†] Furniture of Clerks, and the precious Stones both of Clerks, and Laicks; after an Excommunication has been first publish'd against every Man in every Parish, by the Archbishops, Bishops, and Arch-Priests, who doth not pay the said Tenth in the Presence, and with the privity of those, who are concern'd, and are to collect that Money, (that is a Parish Priest,

[†] *Capella* does properly signify a Cabinet for the keeping of Holy Reliques; and in a larger Sense, any Closet, or Chest for the repositing of any thing that is of value; from hence it came to signify a little Church: For no Church, or Chapel could ordinarily be consecrated, without having the Reliques of some Saint to be kept herein.

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Priest, the Arch-Priest, one Templar, one Hospitaller, a Servant of the King, a Clerk of the King, a Servant, and Clerk of the Baron, and a Clerk of the Bishop.) And if any one pay less than he ought in their Opinion, four, or six lawful Men shall be chosen out of that Parish to declare upon Oath what he ought to have paid, and then he must pay the Deficiency. But Clerks and Knights, who have taken the Cross shall pay none of this Tenth, but out of their own ^c Demain: And whatever is due to them from their Tenants shall be collected by those before mentioned, and be wholly yielded to them for their own use.

^c *Demain* properly signifies that part of the Manor which the Lord kept in his own Hands, but sometimes it signifies any Estate in Immoveables.

2. But let the Bishops by their Letters cause it to be declared in every Parish of their Bishopricks on the Day of the Nativity, and of St. *Stephen*, and St. *John*, that every one have by him the Tenth before taxed by the Feast of the Purification of the Blessed Virgin *Mary*, and make lawful payment thereof on the day following before the Persons aforesaid, at the place to which he shall be warned.

3. Farther it is ordained by our ^u Lord the Pope, that whatever Clerk, or Laick takes the Cross, he be freed, and absolv'd by Authority of God, and the Blessed Apostles *Peter* and *Paul* from all the Sins, which he has repented of, and confessed.

4. ^x It

^u See the beginning of Indulgences. In the first Attempt in the Year 1184. he that contributed his just Aid had only three years Indulgence granted him, if he were under a Penance of seven years, and so in proportion for Penances of fewer years. Sir *H. S.* p. 116. This seems the first Instance of paying Tenths.

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4. * It is ordered also, that all Clerks, Knights, and such as hold by Serjeantry who undertake this Expedition shall have the Tenth of their Lands, and of their Tenants, and shall pay nothing for themselves.

* What is here omitted seems only a cautionary Repetition of the first Article, that all Clerks, Laics who did not take the Cross, should pay their Tenth.

5. And it is ordered, that no one do swear enormously, or play at Dice, and that none after next *Easter* wear parti-colour'd, ° Grifian, Sable, or Scarlet Cloaths; and that every one be content with two Dishes: And that no Man carry any Woman in Pilgrimage with him, but what may walk on Foot to wash his Cloaths, that is unsuspected; and that none wear Cloth slash'd or pinked.

γ See 1038. 15.

6. And it is order'd, that whatever Clerk, or Laic hath before his taking the Cross pawn'd his Rents, yet that he receive the entire Product of this Year, and that the Creditor do again take the Rents, when this Year is past; so that the Rent which he receives be accounted for in paying of the Debt; and that no Use be paid for the Debt, while the Debtor is in this Pilgrimage.

7. And it is order'd, that whatever Clerks, or Laics, go this Pilgrimage, may lawfully pawn their Rents, whatever they be, from *Easter*, when they begin their Voyage, for the Term of three Years; so that the Creditors, whatever becomes of the Debtors, may receive the whole Profit of the Rents which they have in Pawn, from the said *Easter*, for three whole Years.

8. And it is order'd, that whoever dies in the Pilgrimage, he shall divide his Money that he carries with him, by the Advice of discreet Men (who
E shall

MCLXXXVIII. *King Henry II's.*

shall be assigned for this purpose) for the Subsistence of his Servants, and for the Succour of the Land belonging to *Jerusalem*, and for the Relief of the Poor. All the aforesaid Particulars were ordained and order'd by *Henry King of England*, in the Presence of *Richard* his Son, *Earl of Poitou*, *William Archbishop of Tours*, *Baldwin Archbishop of Canterbury*, *Walter Archbishop of Rouen*, *John Bishop of Evreux*, *Ralph Bishop of Angiers*, *R. Bishop of Mans*, and *M. Bishop of Nantes*; and in the Presence of *Hugo de Nunant*, Elect Bishop of *Chester*, and *Lijard* Elect of *Siez*, and of the Barons of *Angiers* and *Mans*, and *Tours* in *Mans*.

These Things being thus order'd, the King appointed his Servants of the Clergy and Laity, for the collecting the Tenth aforesaid in all his Countries beyond Sea, and then cross'd the Sea, and landed at *Winchelsey* on *Saturday*, 3. Kal. *Feb.* In the mean time, *Baldwin Archbishop of Canterbury*, coming into *England* before the King, consecrated *Hugo de Nunant* Bishop of *Coventry*. Our Lord the King, as soon as he was arrived in *England*, assembled a great Council of Bishops, Abbots, Earls, and Barons; and many other Clerks and Laics, to *Gaintington*, where he caused all the aforesaid Heads to be publickly recited, which he had before ordained concerning the taking of the Cross. Which done, *Baldwin Archbishop of Canterbury*, and his Vicar *Gilbert Bishop of Rochester*, marvellously preached the Word of God, and the Mystery of the saving Cross that Day, before the King and his Princes: Whereupon many of the Clergy and Laity took the Cross. And then our Lord the King, sent his Servants both Clerks and Laics, through every County of *England*, to collect the Tenth according to the aforesaid Ordinance made in his Countries beyond Sea. And he caused all of the richer sort to be call'd out of every City in *England*,

MCLXXXVIII. *Crusade.*

land, as two hundred out of *London*, one hundred out of *York*, and out of other Cities in proportion; and caused them all to be presented to him at Times and Places appointed; of whom he took the Tenth of their Moveables, according to the Estimate of credible Men, who knew their Incomes and Moveables: If he found any rebellious, he put them into Prison and Chains, till they paid the utmost Farthing. In like manner he dealt with the *Jews* in his Countrey, by which he ² raised an inestimable Mass of Money.

² One would think this great King must have been under the Effects of old Age (tho' he was but 62) when he engaged with so much zeal in so fond an Enterprize: Yet it is evident ther was something of Discretion even in his dotage, if we compare his Proceedings with those of his Successors; for he did not let the Pope, or his Creatures finger the Money as they did.

Then he sent *Hugh* Bishop of *Durham* to *William* King of the *Scots*, for collecting the Tenths in his Country; upon the hearing whereof, the King of *Scotland* meets them at and not suffering them to enter into his Country for collecting the Tenths, he offered to give to his Lord the King of *England*, five thousand Marks for the Tenths aforesaid, and for the recovering of his Castles; but the King of *England* would not comply. Yet *Philip* King of *France*, caused the Tenths of the Rents and Moveables to be collected in the same manner from his Subjects, thro' all his Countries.

Yet King Henry after his Submission to the Pope's Injunctions, upon the Death of Becket, to go fight for three Years against the Saracens, and the Patriarch Heraclius's offering to him the Holy Land for his own Dominion, upon condition he could get it, and after all these great Preparations made for this
E 2 *Voyage*

PREFACE. Hubert Walter's, &c.

Voyage this Year, and four Years before, and even in the Year 1181, did never take one Step toward the Holy Land; for he was prevented by a sudden unsuccessful War with France, and the next Year he died. His Son, King Richard the First, had a flaming Zeal for this Cause, and the Million and more of Money which he is said (believe it who will) to have squeez'd from his Father's Treasurer, nay, half of it, was at this time a sufficient Fund for such an Expedition, in conjunction with France, and other Christian States; especially when it is considered, that a great part of those that went with him, did it at their own Expence: I mean, it was sufficient to carry them thither. But perhaps all the Money in Europe was not sufficient to have maintained the War there for a considerable Tract of Time, and then to bring them home in case they were disappointed. But they went with a full assurance of Victory and Success, and never admitted such a Supposition to enter into their Breasts; which yet at last happened to be their Case. The Story is well known: The King was forced to come home over land in disguise, and was taken by the Duke of Austria, and made Prisoner, and the whole English Nation, tho' they earnestly desired their King again, yet had been so exhausted by these Levies, that they were hard put to it to raise the Tenth Part of of what he is said to have had from his Father's Treasurer, to pay his Ransom.

A. D. MCXCV.

PREFACE. Hubert Walter's *Legatin* *Canons at York.*

Baldwin Archbishop of Canterbury dying in this Expedition, in which he follow'd the King, Hubert Walter succeeded him in the King's Absence, and
5 was

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was as his Predecessors had been, Legate to the Pope, and likewise had the King's Commission to act as Chief Justiciary (which was in effect Vice-Roy) of England. He was a Man that was very magnificent and generous in his Expences and publick Works, and had an immoderate Affectation of secular Power and Grandeur. What follows seems a Specimen of it.

The Pope absolutely forbid him to continue to execute his Justiciaryship, as contrary to the Canons; he was forced to comply, and did actually resign it. But in a few Years after, he took the Chancellorship, as more consistent with his Order, since in that Court no Cause of Blood can be tried, which yet was below him, as Archbishop of Canterbury.

It is strange how the Archbishop of Canterbury could visit the Province of York at this time, if what Giraldus Cambrensis in the Life of Geoffry, says be true; viz. That this Geoffry before his Consecration, which was 1191, received a Privilege from the Pope, by which his Church and whole Province, were exempt from the Jurisdiction of any Legate but what was a Cardinal, and sent à Latere from Rome, the Place of his Residence. For if Hubert was à Latere, yet the other part of the Character did not belong to him.

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Hubert Walter's Legatin Canons at York.

Sir H. S. vol. 2. p. 121.

A Council celebrated at York, for reforming the Lat. Manners of that Church, by Hubert Archbishop of Canterbury, Legate of the Apostolical See, Anno Dom. 1195, and in the seventh of King Richard the First, the said Legate came to York on

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the *Lord's-day*, being the Feast of the Apostle St. *Barnabas*, and was received by the Clergy in solemn Procession, and introduced into the Church of the Cathedral Sec. On *Monday* he caused Assizes *de novel Disseisin*, and *de Mort d'Ancestre*, and of all the Pleas of the Crown to be holden by his Officers; but he and his ^a Officials held Pleas of ^b Christianity. On the *Tuesday* he proceeded to the Abby of St. *Mary's York*, and there was received by the Monks of the said Church, in solemn Procession. Then he went into the Monks Chapter-house, and upon their Complaint, that *Robert* their Abbot, by reason of his Weakness and bodily Infirmities, was capable of doing no good to their House, he deposed him from his Pastoral Cure, and Administration of the House, who made great Outcries, and appeal'd to his Lord the Pope.

^a Here we first meet with these Canon-Law Judges. My Reader will observe, that this was a singular kind of Synod. I mean a Legatine Diocesan. Ther was no Bishop present, but the Legate himself: Yet by the seventeenth Canon it seems plainly intended, that the Constitutions should oblige the whole Province.

^b The Jurisdiction of Prelates together with all their Privileges often passes under the Name of *Christianity*, and the Ecclesiastical Court was commonly called the *Court Christian*.

On the following *Wednesday* and *Thursday*, having assembled together in the Church of St. *Peter* at *York*, *Simon* Dean of the said Church, and *Hammo* *Præcentor*, and *William Testard*, and *Geoffry de Muschamp*, Archdeacons of *Nottingham* and *Cleveland*, and *John* the Chancellor, and *Robert* Provost of *Beverley* with some Canons of the same Church, with almost all the Abbots, Priors, Officials, Deans and Parsons of the Churches in the Diocess of *York*; the Legate himself sate in a Chair aloft,
and

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and celebrated a most famous Council, in which he ordained the underwritten Decrees to be kept.

The Decrees of the said Council of York.

1. Whereas the Salutory Host hath a Pre-eminence among the other Sacraments of the Church, therefore the Devotion of the Priests, ought to be more particularly employ'd upon it; that so it may be consecrated with Humility, received with Awe, administred with Reverence. And let the Minister of the Altar be sure, that Bread and Wine, and Water, be furnish'd for the Sacrifice: And let it not be celebrated without a letter'd Minister: And let Care be taken, that the Host be reserv'd in a clean and decent Pyx, and let it be renew'd every Lord's Day.

2. As often as the Communion is to be given to the Infirm, let the Priest in Person, carry the Host in a Clerical Habit suitable to so great a Sacrament, with a Light going before it, unless the Roughness of the Weather, or the Difficulty of the Way or some other obstacle do not admit of it.

3. Because the ^c secret Part of the Mass is frequently corrupted thro' the Mistake of the Writers, or the Oldness of the Books, so that it cannot distinctly be read, let the Archdeacons take great Care that the Canon of the Mass be corrected according to some true and approved Copy.

^c That is the Canon. This third Constitution is made up of part of the second, [and] part of the third in Sir *H. S.* By which means here is one Constitution in number more than in Sir *H. S.*

4. We forbid the Priest, when a Layman comes to him for Penance, to injoin him to cause Masses to be celebrated ^d out of a covetous Design. We

^d That the Confessor, or some other Priest might be paid for saying of those Masses.

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have also by Decree forbid the Priest to ^e make a Bargain for celebrating Mass at a certain Price; but that he take that only which is offer'd at the Mass.

^e Afterwards a certain Sum was assigned for every Mass said for any particular Person or Persons.

5. We ordain, that no more than two or three ^f take a Child out of the sacred Font; two Men, and one Woman a Male Child; two Women and one Man a Female Child. And when a Child is found exposed, and it is not known that he has been baptized, let him be baptized, whether he be found with Salt or without; for that cannot be said to be iterated, which is not known to have been done before.

^f This was formerly done by the Sureties.

6. We have also decreed, that a Deacon (unless in the most urgent Necessity) do not baptize, or give the Body of Christ, or injoin Penance at Confession to any Man, as being what Antiquity decrees to belong properly to the Sacerdotal Order, according to the Tenour of the Canons of the Fathers. We add under the same Head, that whenever a Priest is desired to baptize a Child, or communicate an infirm Person, he presume not to make Delays.

7. Whereas nothing unseemly ought to be in the House of Prayer, which is the House of God, we charge that Parsons and Vicars do take diligent Care, according to the ⁸ Pensions which belong to them, as Reason directs, and approved Custom requires, that Churches which want Reparations be repaired.

8. And

⁸ It does not certainly appear whether these Pensions are said to belong to the Churches, or to the Rectors and Vicars: It seems most probable that the old Canonical

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nical Portion belonging to the Fabrick is here intended: Rectors could not properly be said to have a Pension, for the whole Endowment was theirs: And if any thing was granted out of it, this was a Pension.

8. And let Ministrations be performed with Ornaments proper for them.

9. Also let the Sacrament of the Eucharist be consecrated in a Silver Chalice, where ther is a Sufficiency for it. We have fix'd a Term for this Ordinance; that is, ^h a Year from the beginning of our Legateship: And if these Things be not executed in the mean time, we have decreed, that before the Expiration of that Term, our Disposal of the Incomes of the Churches take full effect.

^h *Hub. Walter* became Archbishop in the year 1193. therefore near two years had expired since the beginning of his Primacy; yet one year was not yet past (by what is here said) from the beginning of his Legateship; therefore we may safely conclude, that the Archbishop of *Canterbury* was not yet *Legatus natus*; but had his Legatine Commission given him some time after his Advancement to the Metropolitcal See. Thus much is I think clear from this Constitution. But it must be own'd, that the Consistency of it in other Respects is not very clear.

10. And we have ordained, that Clerks who have received the Crown from the Bishop, do preserve their Crown and Tonsure; and if out of Contempt they do it not, let them be compell'd to it, by Deprivation of their Benefices, if they have any. Let them who have no Benefices, be clip'd against their Wills, by the Archdeacons or Deans.

11. We ordain also, that Priests go not in Copes with Sleeves, but in Apparel suitable to their Order, that as they are superior to others in Dignity, so they may give them a more perfect Scheme and Pattern of Decency.

12. Since

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12. Since the Scripture testifies, that he is blessed, who withdraws his Hand from accepting Bribes, it is most carefully to be provided, that Justice be done *gratis*, and that no Pay be taken for doing it, or laying it aside, or hastning, or delaying it in ecclesiastical Cases; that so the just Judge may reward a Man according to his Righteousness, at the proper time.

13. Since Tithes are Tributes, which ought by the Law of God to be paid to needy Souls, and to be paid without Diminution, we ordain that due and accustomed Tithes be yielded of such things as are yearly renewed in the most entire manner; so as they be in the first place paid to the Church, and afterwards the Wages of the Harvesters, and of other Servants, at the discretion of the Payer, out of the nine Parts.

14. The Profession of Religious Sanctity, requires that Monks, Canons Regular, and Nuns, make their Conversation suitable to their Names: That therefore all Opportunity of wandring, may be taken away, we forbid them to take to farm such ⁱ Places as are call'd *Obediences*, nor take any long Travels, nor go out of their Monasteries without some certain, reasonable Cause, nor without such Company [as is] of certain undoubted Honesty.

ⁱ Latin, *Redditus*; which commonly signifies *Rents*, but at the foot of this Council the Dean and Chapter of *York*, claim the Donation of the Archdeaconry then in dispute, and of all *Redditus* that are vacant in the Church of *York*: There then *Redditus* certainly signifies *Places*, or *Offices*, with the Estates, and Profits belonging to them. And it is well known that the Offices of Chamberlain, Sacrist, Cellarer, &c. in the great Religious Houses had commonly good Estates belonging to them: The Monks are here forbid to take these Estates to Farm: And these Offices in Monasteries were commonly called *Obediences*.

15. We

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15. We add with a special Item, that Nuns do not go out of the Verge of their Monastery, but in the Company of their Abbesses or Priorefs.

16. And we forbid any Layman to take a Church or Tithes to farm, either by himself alone, or in Partnership with a Clerk.

17. That the Improbability of Calumniators, and the Malice of false Swearers, may be restrained by the Fear of Judgment from above, we charge that every Priest do for the future thrice in the Year, solemnly with Candles lighted, and Bells tinkling, excommunicate those who shall knowingly, and wilfully forswear themselves, and those who maliciously cause others to forswear themselves in ^{*}Recognitions, or other Testimonies, and let him every Lord's Day, denounce them excommunicate, that he may reclaim them from their Iniquity by the frequent Repetition of the Curse, whom the Accusation of their own Conscience does not deter. But if they repent of their Perjury, let them be sent to the Archbishop or Bishop, or the General Confessor of the Diocese, in the Absence of the Archbishop or Bishop, to receive Penance from him. Penance is only to be intimated, not intimated them, if they are dying. But they must be firmly charged, that if they survive, they go to the Archbishop or Bishop, or in their Absence to the General Confessor of the Diocese, to receive Penance.

18. Because

^{*} Verdicts given by Jurymen most probably: For the use of Juries began in the foregoing Reign; and the Reader will observe, that these general Excommunications began in this Age. Before this, Excommunication was pass'd on Men unknown in order to discover them. Of this you have a form in *Wanley's Catalogue*, transcribed from a Book in CCCCC mark'd S. 17, written by a *Norman*, but in the *Saxon* Tongue. The
Form

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Form here follows: " By Authority of Almighty God,
" Father, Son, and Holy Ghost, and St. *Mary* Mother
" of our Lord, and St. *Michael* the Arch-Angel, and
" St. *Peter* the prime Apostle, and St. *Nicolas*, and the
" B. *Augustin*, and all *Christ's* Saints, let the Men be
" excommunicated and damned *that committed this Theft*,
" that consented to it, or shared in it, or that have, or
" expect any part of it; and let them be separated from
" entering into Holy Church, and from the Fraternity
" of God's Elect. Moreover let them have their Por-
" tion and Punishment with *Judas* our Lord's Disci-
" ple, and with them that said to our Lord, *Depart*
" *from us, we will not have the Knowledge of thy way*;
" except they be converted, and betake themselves to
" Satisfaction. Let them be accursed eating, and drink-
" ing; walking, and sitting; speaking, and holding
" their peace; waking, and sleeping; rowing, and ri-
" ding; laughing, and weeping; in House, and in
" Field; on Water, and on Land, in all places. Cursed
" be their Head, and their (*pecganf*) Thoughts, their
" Eyes, and their Ears, their Tongues, and their Lips,
" their Teeth, and their Throats, their Shoulders, and
" Breasts, their Feet, and their Legs, their Thighs, and
" their Inwards: Let them remain accursed from the
" bottom of the Foot to the Crown of the Head, un-
" less they bethink themselves, and come to Satisfac-
" tion. And just as this Candle is deprived of its pre-
" sent Light; so let them be deprived of their Souls
" in Hell. Let all the People say, so be it, be it so.

18. Because according to the Word of the Lord,
*If the Priest offend, he will cause the People to of-
fend; and a wicked Priest is the Ruine of the Peo-
ple*; therefore the Eminence of their Order, re-
quires that they abstain from publick Drinking
Bouts and Taverns: And let not those who are
under a Vow of Continence, give a loose to Acts of
Uncleanness; therefore we forbid them to have
Concubines in their own Houses, or Access to
such as they cast off, to evade our Constitution,
in the Houses of other Men: If they persist in
their

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their Filthiness, and the ¹ Deans by Connivance, do not notify it to their Prelates, let them be suspended from their Office. And may those, who inflam'd with Zeal, do notify their Excesses to their Prelates, obtain the Divine Benediction. The Punishment of those who *publickly* keep Concubines, shall be Infamy, and an Incapacity to give Information or Testimony. If they repent not for fear of this Punishment, let them know that they are to be suspended from Office and Benefice.

¹ Probably Deans Rural.

19. Let him that is suspected of a Crime upon Common Fame, or probable Signs and Tokens, be familiarly admonish'd once, twice, and thrice by the Dean of the Place, to reform himself; which if he do not, let the Dean reprove him in conjunction with two or three more, with whom he hath lost his Reputation: If he cannot be reformed by these Means, let him tell the Church; that is, let him be reprov'd in the Chapter, that upon Conviction or Confession, he may be canonically punish'd, or if he deny it, and cannot be convicted, a Canonical Purgation may be injoin'd him; so that [the Compurgators] do not exceed the number Twelve, and that more or fewer be accepted according to the Quality and Circumstances of the Person, and of the Infamy, at the Discretion of the Judge: And let the Purgation be admitted of the very first Day in which the Person defamed is ready to perform it; that so no Money be extorted by the Fear of Vexation to be occasioned by Delays. We have ordained these, and the abovementioned Particulars, with a ^m saving in all Respects, to the Authority and Dignity of the Holy Roman Sec.

In

^m This Archbishop proceeded with a singular deference

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rence to the See of *Rome*. He adds such a Saving to the end of every Constitution in his Synod 1200. He was transported with the Honour done him by the Pope in making him Legate. But he ought to have known, that he was not the first Archbishop of *Canterbury*, that had holden a Synod, and visited in the Diocese of *York*. It had formerly been done, tho' without a Popes Commission.

In this Council *Peter Dinant* demanded full Restitution to be made to him of the Archdeaconry of the West Ri[di]ng, which ^a *Geoffry* the Archbishop had given him, commanding the Chapter of *York* that they should receive, and instal him: To whom *Simon* the Dean with the Chapter answer'd, that the Archbishop could not give that Archdeaconry to any Man, because he had delay'd

^a This *Geoffry*, the present Archbishop of *York*, was the Son of fair *Rosamund*. *Baldwin*, Archbishop of *Canterbury*, claim'd the Consecration of him, when he was first nominated to the See by the King his Brother, but he could not obtain it: For *Geoffry* went to *Tours* to be consecrated. *William Longchamp*, Bishop of *Ely*, and chief Justiciary of *England* treated him very severely at *Dover*, in the absence of King *Richard*, as he did many others. Pope *Cælestin* cut the whole Kingdom of *Scotland* off from his Province, *A. D.* 1191. and made it subject immediately to the See of *Rome*. And now the Archbishop of *Canterbury* lords it over him in the remaining part of his Jurisdiction. No wonder, that he did not chuse to be Eye-witness of it: But he was for the greatest part of his time by force absent from his See by reason of the Jealousies between the King and him. *Hubert Walter* was Dean of *York*, when *Geoffry* was elected Archbishop, and refused to pronounce his Election according to his Office, pretending that the Election fell upon himself; but he was forced to content himself with the See of *Sarum*, till the Archbishoprick of *Canterbury* became vacant. It is evident that the old Rivalry between *Hubert* and *Geoffry* was one great occasion of the Calamities, which attended the latter even to his Grave.

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delay'd to give it beyond the Time fix'd in the
° *Lateran* Council, where Pope *Alexander III.* ordained, that when Prebends, Churches, or any Offices in a Church are vacant, they should not long hang in suspense, but be confer'd within six Months, on Persons fit for the Administration thereof. If the Bishop delay'd to confer what belong'd to him, that the Chapter should provide for it: That if the Election belong'd to the Chapter, and they made none in six Months, the Bishop should do it with the Advice of Religious Men. If all neglected it, that the Metropolitan of the Bishops should dispose of it, according to the Lord, maugre their Contradiction. The said *D.* and *C.* of *York* asserted, that by Authority of this Disposition, and by Privilege granted to the Church of *York* by Pope *Cælestine III.* the Donation of the said Archdeaconry, and of all Places vacant in the Church of *York*, which their Archbishop had not conferr'd within the Term fix'd by the *Lateran* Council, belong'd to them. But the Officials of the Archbishop of *York*, *Girard de Rowell*, and *Honorius*, appeal'd against the said Privilege, and renew'd the Appeal which the Lord Archbishop had made at his Recess, for the Security of his Church, before the Legate and Council. And tho' it was contained in the Privilege, that Appeals against it should be set aside, yet the Legate shew'd a regard to the Appeal of the Archbishop of *York*.

° Lat. Council, 1179. under *Alex.* 3. c. 8.

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Sir H. S. vol. 2. p. 123.

Lat.

Hubert (*Walter*) Archbishop of *Canterbury*, held a P general Council at *Westminster*, notwithstanding the Prohibition of *Geoffry*, Son of *Peter* Earl of *Essex*, then chief Justiciary of *England*, in which Council the following Canons were made.

P That is National.

1. Whereas an Error in Divine Offices endangers both the Souls and Bodies of Men, it is wholesomly provided by this Council, that the Words of the 9 Canon be roundly, and distinctly pronounced by every Priest in celebrating [Mass;] not curtail'd by an hasty, or drawn out into an immoderate length by an affectedly slow Pronunciation. In like manner that the Hours, and all the Offices be rehearsed plainly, and distinctly without clipping, or mangling the Words: The Offenders after these Admonitions are to be suspended, till they make just Satisfaction. Saving in all things the Honour, and Privilege of the Holy Church of *Rome*.

9 The Canon, or secret part of the Mass is from the end of *Trisagium*, to the end of the Consecration.

2. A Priest may not celebrate twice a day, unless the necessity be urgent. When he does, let nothing be poured into the Chalice after the receiving of the Blood at the first Celebration, but let the least Drops be diligently supp'd out of the Chalice, and the Fingers suck'd, or lick'd with

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with the Tongue, and wash'd, and the Washings kept in a clean Vessel to be had for this purpose; which Washings are to be drunk after the second Celebration; except a Deacon, or some other considerable Minister be present to drink the Washings at the first Celebration. Farther, let the Eucharist be reserv'd in a clean decent Pyx, and so carried to the [*vide supra*] Sick with a clean Cloth laid over it, and a Candle, and Cross before it, unless the sick Man dwell at two great a distance. Let the Host be renewed every *Lord's Day*. And let ther be a certain distinction between the consecrated, and unconsecrated Hosts, that the one be not taken for the other. Farther, let the Eucharist be given in private to no impenitent Person: But it is to be given in publick to every one that earnestly repents; so that his Crime be not notorious. Saving, &c.

* The Priest was not now to drink the Washings as in other Masses: Because this would have broken his Fast, and unqualified him to say Mass a second time.

† It was presumed, that some Particles of the Sacramental Blood remain'd in the Washings, and that therefore none was fit to drink them without a particular Preparation; but some Deacon, or Priest: Yet the Constitutions of *Richard Bishop of Sarum* allow any innocent Person to drink them. *Sir H. S. p. 148.*

* This is an obscure place, and evidently corrupted; so is the parallel Constitution of *Richard Bishop of Durham*, *Sir H. S. p. 173.* I translate from the more just reading of *Richard Bishop of Sarum*, *ibid. p. 148.* misprinted for 150.

3. If ther be any Doubt whether one have been baptized, or confirmed, we charge, according to the Holy Canons, that the Sacrament, of which ther is a Doubt, be confer'd. Let Foundlings be baptized, whether laid with Salt, or without. Let none be held at Confirmation by Father, or Mother, or by Father, or Mother in Law. A Dea-

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con may not baptize, or give Penance, but when the Priest cannot, or will not, and yet Death threatens the Child, or the sick Man. If a Layman baptize a Child in case of necessity (and "even a Father, or Mother may do it without Impeachment of Matrimony) let all that follows after the Immersion be performed by the Priest. Saving, &c.

" Some old Canons have dissolved Matrimony on account of the Fathers or Mothers Baptizing one of their Children: For it was pretended, that by the Father's Baptizing the Child a Spiritual Relation was contracted, which made any future Conjunction with his own Wife incestuous.

4. In administering Penance we charge that Priests, according to the Canons, diligently consider the Circumstances, the Condition of the Party, and of the Sin; as also the time, place, and occasion; together with the backwardness or devotion of the Penitent. Let Penance be so injoin'd to the Wife, that her Husband may not suspect her of any heinous Crime; and let the same be observed in relation to the Husband. Let no Priest presume to celebrate after a Lapse, till he has confess'd. And to cure the Covetousness of Priests, let them not injoin Masses by way of Penance, except to such as are themselves Priests. Saving, &c.

5. We following the Decrees of the * *Lateran* Council, which are the most famous of any that have been ordained by the modern Fathers, do forbid Archbishops to exceed the number 7 of forty, or fifty Men, and Horses, Bishops the number of twenty, or thirty in visiting Parishes: Let the

* The later Council under Pope *Alexander* 3. is here meant, which was holden 1179. We have this Constitution in *Decretal. L. 3. Tit. 39. c. 6.*

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the Archdeacon be content with five or seven, the Deans under the Bishops with two. And let them not make their Progress with hunting Dogs, or Hawks; but like such as seek not their own, but the things of *Christ*. We forbid Bishops to lay Taxes on their Subjects, but only to demand moderate Aids of them, when necessity requires them. Let Archdeacons and their Deans presume to exact nothing of their Priests, or Clerks. The abovesaid number of Horses and Men is tolerated in relation to rich Places, in poor Places moderation is to be observed: And they who formerly used a less number, are not to think their Power greatly enlarged by this Indulgence. The design of Visitation is to see to what concerns the Cure of Souls, and that every Church have a Silver Chalice, a sufficiency of decent Vestments for the Priest, necessary Books, and Utensils, and whatever is necessary for the Honour, and Dignity of the Sacrament. For the cure of Covetousness, and Negligence, by the Authority of the Council of *Toledo*, we charge that no Visitor demand any Procuration, or Money in lieu of it, of a Church, where he hath not duly performed the Office of Visitation. Saving, &c.

6. According to the ² *Lateran* Council, If any Bishop ordain a Priest, or Deacon, without a Title, let him maintain him till he can make a Clerical Provision for him in some Church, except he be able to live of his own, or have a Patrimony: And if the Archdeacon without the special Command of the Bishop present a Man to be ordained a Subdeacon, and he be accordingly ordained without a Title, let him be liable to the same Penalty. Saving, &c.

² The *Lateran* Council, 1179, c. 5. is here meant.

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7. Following the Decrees of the^a *Lateran* Council, we charge that neither Prelates excommunicate their Subjects without Canonical Warning first given them, (except their Crime be such as brings them under a^b general Excommunication) nor Subjects, contrary to Ecclesiastical Discipline, talk loudly of appealing, before their Cause be heard. If any one think it necessary to appeal, let a time be fix'd for his Prosecution of it; and if within that time he against whom the Appeal is made, do appear, but the Appellor appears not, let him make competent Satisfaction, if he has wherewithal. Our Will is, that this be especially observed by Monks and the Religious, that they presume not to appeal against the regular Discipline of their Prelate and Chapter, when they are to be corrected for any Excess, but humbly and devoutly submit to what is enjoin'd them. Farther, let a [^b*vide supra*] general Excommunication be yearly denounced against Sorcerers, such as are forsworn
on

^a The *Lat.* Council, 1215. c. 47. is here meant.

^b These general Excommunications were one of the many great Innovations of this Age. The Primitive Church excommunicated Men for open known Crimes only; but these extended to the most secret, hidden Actions. By this way of proceeding Men were made to believe that they were actually excommunicated by a Sentence pass'd before the Crime was committed; thus by the ninth Canon of this Council, he that withdrew his Tithes in Harvest was excommunicated by a general Sentence pass'd before Harvest. From hence sprung the Notion of an Excommunication *ipso facto*, which was unknown to former Ages. For the ancient Christians thought none excommunicated, but such as were actually separated from the Communion of the Faithful. Whereas upon the new Scheme a Man might be *ipso facto* Excommunicate, and yet live, and die in the Perception of the Sacraments. For these general Excommunications affected chiefly those who had tender

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der Consciencs, and who were therefore their own Accusers.

on the ^c Sacraments, Incendiaries, violent Ravishers; so that they who by their Perjury have damaged others, be not absolved, nor receive Penance from any but the Bishop, or one authorized by him, except at the Point of Death, and then let them be enjoined to go to the Bishop, or one authorized by him in order to receive Penance, in case of Recovery. Saying, &c.

^c *Supra Sacro-sancta Evangelia* in the parallel Canon of Richard Bishop of Sarum. Sir H.S. vol. 2. p. 146.

8. According to the ^d *Lateran* Council, we forbid any thing to be demanded for inducting or instituting Priests, or other Clerks, for burying the Dead, or giving the nuptial Benediction, for Chrism, or any of the Sacraments. Let the Offender have his Portion with *Gehazi*. Let nothing be exacted for Licenses to Priests to perform divine Offices, or for Licenses to Schoolmasters. If it have been paid, let it be restored. Let not Churches be charged with new Pensions by Bishops, Abbots, or other Prelates, nor let the old ones be increas'd: Nor let them presume to apply any part of the Fruits to their own Use; and let all that is done to the contrary, be null. Let no Ecclesiastical Benefices or Ministries, or Churches be given, or promis'd till they are vacant; that so no Man may wish the Death of another, a thing condemned even by Heathens. Saying, &c.

^d The *Lat.* Council, 1215. c. 7.

9. Whereas the Authority of the Old and New Testament, and the Constitutions of the holy Fathers, declare that Tithes are to be paid of all Things yearly renewing, we decree that they be

F 3

accord.

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accordingly paid in full, without any Abatement for the Wages of Servants, or Harvesters. Let Priests have Power of excommunicating all Withdrawers of Tithes, before Harvest, and of absolving them, according to the Ecclesiastical Form. What we add to this Sanction is, that the Tithes of all ^e Lands newly cultivated, be paid to no other but the Parish Churches within whose Bounds the Lands so cultivated lie. Let Detainers of Tithes be anathematized according to the Constitution of the Council of *Rouen*, if upon a third Admonition they do not make full Satisfaction. Saving, &c.

^e By this it appears, that an Opinion prevailed among the *English* at this time, that the Tithe of Ground which had never been manured before might be given to any Ecclesiastical Person, or Body at Discretion: And by this we may give a fair Account of the occasion that *Innocent* the Third had to publish his Bull against those, who assumed to themselves this Power of paying their Tithes to whom they would, and that therefore the common Lawyers, who assert that all were at liberty before this time, is a mere fanciful and groundless Notion. It is observable that the Pope's Letter mentions none that used this liberty, but only some in the Diocese of *Canterbury*. And it is well known, that in this Age the Weald of *Kent* (most of which is in that Diocese) was in a state of Improvement: The Woods were grubbing up, and the plain Lands, and the number of Inhabitants increasing: And at the same time the Sea was continually making Recesses on the Southern, and North Eastern Coast; by which means great quantities of Land became newly cultivated, and gave occasion to this practice, against which this Provision was made.

10. We ordain, that in Churches not worth above three Marks a Year, none be instituted but he who will serve in Person. And in Honour to the ^f *Lateran* Council we decree, that Men in Holy Orders keeping filthy Women in their

^f *Lat.* Council, 1179. c. 11.

Houfes,

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Houses, do either discard them and live chastely, or be deprived of their Office and Benefice: And farther, that Clerks go not to Taverns, or Drinking Bouts; for from thence come Quarrels, and then Laymen beat Clergymen, and s fall under the Canon. And it is not fit, that Clergymen, who by their own fault were the occasion of the Offence, should escape unpunish'd, when the Cause comes before the Pope. Let all Clergymen use the Canonical Tonsure, and the Clerical Habit. But let Archdeacons, and dignified ^b Priests, use Copes with Sleeves. Saving, &c.

s The most common Case by which Men fell under the Canon, that is were to be excommunicated *ipso facto*, was for laying violent Hands on Clergymen: There are about sixty Heads in the thirty ninth Title of the fifth *Decretal* concerning Excommunication. Above half of these Heads relate to this Case of striking Clerks: Yet there are no Authorities there cited, that are thirty years before this Council of *Hubert Walter*. The first severe Constitutions made on this Head do not exceed the time *Innocent* the Second, who sat in the Chair of *Rome*, when *Alberic* came hither as Legate from him. He in his tenth Canon threatens them with *Anathema* that strike Ecclesiastical Persons. But Excommunication *ipso facto* was a later Invention.

^b The Latin says *Dignitarii*, & *Presbyteri*, but I delete &, for sleeved Copes were never allowed any but dignified Clergymen.

11. Let not a Man contract with a Relation of his former Wife, nor a Woman with a Relation of her former Husband; nor a Godson with a Daughter of the Baptizer, or of the Godfather, whether born before or after. Let no Marriage be contracted without Banns thrice publish'd in the Church, nor between Persons unknown. Let none be joined in Marriage, but publicly in the Face of the Church, otherwise let it not be allow'd of, except by the special Authority of the

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Bishop. Let no married Persons take a long Journey without the mutual Consent of both made publickly known. Saving, &c.

12. Let such as are publickly defamed, or suspected but cannot be convicted, be thrice admonished to confess, and make Satisfaction. If they persist in denying the Crime, let a Purgation be enjoined them: Let it not be deferr'd from time to time, for the sake of Money, but be dispatch'd the first Day they have their ¹ Canonical Number (which must not be exceeded) in a readines. Saving, &c.

¹ Twelve in greater Crimes, six in lesser.

13. Supported by the ^k *Lateran* Council, we decree, that wherever there are so many Lepers together as can build a Church with a Church-yard, and have a proper Priest, they be allowed to do it; but so, that they do no Injury to old Churches. And we ordain, that they be not compell'd to pay Tithes of their Gardens, or for the Feed of their Cattle. Saving, &c.

^k *Lat. Council*, 1179. c. 23.

14. We decree, according to the Tenor of the *Lateran* Council, that no Brothers Templars, Hospitallers, nor any Religious whatsoever, do receive Tithes, Churches, or any Ecclesiastical Benefices from a Lay Hand, without the Authority of the Bishop, and that they relinquish what they have
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¹ Lay-Patrons before this Council of *Lateran* presumed to appropriate Churches, and all, or part of the Tithes to any religious Bodies of their own Heads, without asking leave of the Bishop, or any one else. The Canon of *Lateran*, and this of *Hubert* were intended to put a stop to this Evil: and they did it effectually. From this time forward Bishops were always Parties to such Improvements as were (too often) made, and Clergymen were instituted in their Benefices by them.

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of late so taken. ^m And we ordain, that such of them as are under Excommunication, or Interdict by Name, be avoided by all. Let them present Priests to Bishops for the ⁿ Churches which they hold not by an absolute Right, who shall be ^o answerable to the Bishops for their Care of the People, and accountable to the Religious for the Temporals. Let them not presume to remove such as are already instituted, without the Advice of the Bishops. If any Templars, or Hospitallers come to one of their Churches that is under Interdict, let them be admitted to the Ecclesiastical Offices but once a Year, nor even then let the Bodies of such be buried as died under Interdict. As to such of their Fraternities as keep themselves close to their Properties, and never come to their Brethren, let them not therefore be exempted from the Sentence of the Bishop, any more than the rest of the Parishioners. And we charge that this be observed in relation to all other the Religious. Let the Churches in which such Attempts are made be interdicted; and all that is done be null ^p by Authority of the said Council.

^m It is evident by what follows, that there was a Clause here inserted, whereby divers of the Religious, especially of the Templars and Hospitallers, were laid under Excommunication: But it is dropt by the Transcribers. The *Lat.* Council here meant is that in 1179. *c.* 9.

ⁿ That is such as were not given them with consent of the Pope, nor exempted from the Bishops Jurisdiction, by Papal Authority.

^o These are the Words of the *Lat.* Council, *c.* 9.

^p In all other Cases these privileg'd Churches were exempt from the Authority of Bishops, and Metropolitan; but in order to root out Lay Donations, this Council of *Lateran* subjects them as to this particular to the Diocesan.

Let not Monks be received into Monasteries for Money, nor have any Property, nor wander up and down

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down in Towns or Villages, nor be placed singly in Parish Churches, but remain in their Convents, or with some of their Brethren. If any have paid what was exacted for his Admission, let him be incapable of Canonical Orders, and let him that received it, be deprived of his Office. If any have a Property, except by the Allowance of the Abbot, for the better Discharge of some Office, let him be removed from the Communion of the Altar: And he who upon his Death is discovered to have had a Property, let not the Oblation be made for him, nor his Corps be buried among those of his Brethren. We charge that this be observed by all the Religious, and the Abbot or whoever is guilty of a Neglect, is to incur the Loss of his Office. Let [¶] Priorships and Obediences be given to none for Money: Else let both the Giver and Receiver be deprived. Let not Priors once appointed be remov'd, except for Dilapidation, Incontinence, or some manifest Cause; or because ther is a necessity of translating them to some greater Office. Let not Black Monks or Canons, or Nuns use colour'd Copes, but black only; nor any Facings but black or white, made of the Skins of Lambs, Cats, or Foxes. Let none of the Religious wear [†] Caps, nor go out of their Cloisters on Pretence of Pilgrimage. And we decree that in every Church impropriated by any of the Religious, a Vicar be instituted by the Care of the Bishop, who is to receive a decent Competency out of the Goods of that Church.

A. D.

[¶] In Monasteries that had an Abbot, the Priors were next to the Abbots; in lesser Monasteries the chief Governor was the Prior.

[†] The Copes then used by the Religious had Hoods fastned to them, or all of a piece with them, therefore they

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they had no occasion for Caps: And I conceive it probable, that the Copes of secular Priests were in this respect of the same make with those of the Monks.

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Abbot of Flay's Sabbatarian Injunctions.

Sir H. S. vol. 2. p. 128.

THE Pious Frauds of Eustace Abbot of Flay, to terrify Men into a Cessation from Labour from three a-clock on the Saturday, till Sun rising on Monday, must not be wholly omitted. He shewed a Letter written from Christ, and found on the Altar of St. Simeon at Golgotha, containing severe Objections against Christians for their Negligence in observing the Lord's Day, and Feasts of the Church. Gosfry Archbishop of York, countenanced him in his Proceedings. He gave Absolution, and enjoined Penance to those who confess'd their Guilt in this respect. He enjoined his Penitents to give a Farthing out of every five Shillings of their Personal Estate, for buying Lights for the Church, and for Burying the Poor; had a Box plac'd in every Parish Church for the collecting of it, and an Alms-Dish for the Table of the Richer sort, in which a Share of Victuals was to be put for the poor Neighbours; and he forbade buying or selling, and Pleadings in Churches and Church-Porches. But it seems they who in Obedience to Eustace, undertook to interrupt Men in transacting their Business on the Lord's-Day, were called to account for it by the Civil Power. But it is said, that God shewed his Judgments against these Profaners: A Woman weaving after three a-clock on Saturday Afternoon, was struck with the Dead Palsie. A Man that made a Cake at the same time, when he came to eat it on the Lord's-Day Morning, Blood flow'd from it.

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it. Corn grinded by a Miller, was turned into Blood, and the Wheel of the Mill stood immoveable against the Force of the Waters. A Woman put her Paste into the heated Oven at this time, and when she thought it baked, found it Paste still. Another Woman by the Advice of her Husband, kept her Paste till Monday Morning wrapt up in a Linen Cloth, and then found it ready baked. I wish no Protestants had vended the like Tales. All this made no Impression either upon the Secular or Ecclesiastical Governors, excepting Archbishop Geoffry.

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PREFACE. *Archbishop Langton's* *Constitutions.*

AS Hubert Walter was a very haughty and imperious Primate, so was his Successor Stephen Langton; but with this difference, that the former was obsequious to the Pope; this latter on the contrary, could no more humble himself to the Old Gentleman at Rome, than to his Prince at home. King John was very roughly handled by both these Bishops. But this latter not only opposed the Pope's Legate in his exorbitant Grants of Benefices here in England, but the King and the Pope himself, in being the Principal of those Peers who declared against the Validity of King John's Resignation of his Crown and Kingdom, to the See of Rome. And this is the more to be admired, when it is considered, that this Stephen was wholly the Pope's Creature, advanced to the Chair of Canterbury by his sole Authority, in opposition to the proper Electors, the Monks of Canterbury, the main Body of the Bishops of the Province,
who

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who claimed a concurrent Power with the Monks in the Election of their Primate, and of the King himself, without whose Consent no Prelate could legally be chosen. The Monks had clandestinely, without the Knowledge either of the Bishops or the King, made choice of Reginold their Sub-Prior, and secretly dispatch'd him away towards Rome, to procure the Pope's Confirmation; but the Design was soon discovered by Reginold himself. The King having many of the Bishops with him, next Christmas sends for the Principal of the Monks, and by Consent of all Parties, John Grey Bishop of Norwich, the King's Favourite, was voted to the See of Canterbury, and Twelve of the Monks sent to sollicite his Cause with the Pope; but in contradiction to both these Elections the Pope nominates and consecrates Stephen Langton, and lays the King and Kingdom under an Interdict for not receiving him as their Primate, and thus for above six Years time, the Nation was deprived of all publick Offices of Religion, till at last King John broken and dispirited by Opposition from the Pope and foreign Princes from abroad, and from his Barons, and many of his Clergy and People at home, submits to the Pope's Election of Stephen; and yet could not procure a Relaxation of the Interdict, till he had paid forty thousand Marks by way of Satisfaction to the Church, for the Reprisals which he had made on the Prelates and Religious Houses, who favour'd the Cause of the Pope, and Stephen his Archbishop; and had also granted a Charter to the Archbishop of Canterbury, the Bishops of London, Ely, Hereford, Bath, and Lincoln, who had been the chief Sufferers by the Depredations made by the King during the Interdict, that all Elections should be free for the future: Only the King's Consent must be ask'd, which he promises never to deny without reasonable Cause.

Sir H. S. vol. 2. p. 135.

This Archbishop was not in a Condition to call Synods

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nods for many Years after his Advancement, tho' Affairs both of the Church and State were too much embarrass'd. I am sensible, that there are three Constitutions in Sir H. S. vol. 2. p. 133. and four in the Appendix to Lindwood, and Athone, published at Oxford Anno Dom. 1679, which are attributed to this Archbishop, and said by Sir H. S. to be made Anno Dom. 1206; whereas it is evident, that Stephen Langton was not then Archbishop; for the Bull by which the Pope sets aside the Privilege of the Bishops of the Province, in the Election of a Primate, bears date December, the ninth Year of that Pope; that is, Innocent the Third, who was not promoted to the Pontificate, till January the eighth 1198, and therefore this Bull could not be issued till December 1207, and yet 'tis evident, that the annulling of the Suffragans Votes in the Election of an Archbishop, was only a previous Step to the establishing Stephen in the See of Canterbury: Therefore it is impossible for this and some other Reasons, that the Constitutions beforementioned, should have been made under the Presidency of Stephen Langton: (It will hereafter appear, that they were indeed made in the time of Simon Langham). But when Matters were somewhat better compos'd, viz. In the eighth Year of King Henry the Third, this Archbishop call'd a Council at Oxford, where the following Constitutions were made.

NB. These are the first Constitutions that are inserted into Lindwood's Provincials, and L. in my Notes always stands for Lindwood.

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Archbishop Langton's Constitutions.

1. **B**Y Authority of God the Father, the Blessed *Lat.*
Virgin, and all the Saints, and of this present Council we [†] excommunicate all those, who maliciously deprive Churches of their Rights, or unrighteously endeavour to infringe, or disturb their Liberties; [^{*} as also all those, who seize Ecclesiastical Benefices in the Province of *Canterbury*,

[†] These General Sentences of Excommunication thrown at random had some Effects, else probably they would never have been so long practised, nor would Princes have desired, that the Enemies to them, or their Government should be included in them. Yet I cannot think, that they are to be approved, as being without Precedent in the first, and purest Ages. Then indeed Hereticks, and Schismatics in general were laid under Sentence of Excommunication, or *Anathema*: But then the condemned Persons were clearly known by their absenting from Church, and frequenting other Assemblies, or none at all; whereas many Criminals by these new fashion'd Excommunications were intended to be laid under this Sentence, who must be unknown both to Priests and People, and who did therefore, notwithstanding this Sentence continue in actual Communion both within the Church Doors, and without. Excommunication is a publick Sentence against Persons certain, and for Crimes either confest, or proved against them; which cannot be said of these Sentences. And indeed few or none of the ends of Excommunication were served by this method of proceeding (which see unbloody Sacrifice Part 2. pag. 213.) It might perhaps make Impression upon some meek, tender hearted Sinners, but none at all upon the harden'd, for the Humiliation of whom Excommunication was chiefly intended.

^{*} The Sentences inclosed in these Crotchets [] are only in the Appendix to *Lindwood*, and *Ashome*, in the
Oxford

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Oxford Edition, not in Sir *H. Spelman's* Edition, nor in *Lindwood's* Text.

bury, without the Authority of the Diocesan, with their Abettors; and all that violate Sequestrations of vacant Churches, or any other Sequestrations laid by the Bishop; and the Clerks who are guilty in this respect are liable to other Punishments provided by Synod.] All that violate Sanctuaries, or take Goods, or Men from thence; all that seize on the Goods of Clergymen, or of their Tenants (and especially of such as dwell on the Bishops Lands) unjustly, or do any ways molest their Persons; and also all Thieves, Robbers, Freebooters, Incendiaries, sacrilegious and falsarious Persons, with their Principals, Receivers, Defenders, Complices, and Partakers: Those especially, who keep Robbers on their Lands, in their Castles, or Houses, or are Sharers with them, or Lords over them: And all that injuriously disturb the Peace of the King, or endeavour to withhold the Rights of our Sovereign Lord or of his Realm.

We excommunicate all those, who knowingly bear false Witness, or procure others to do it, or who ^a produce such witness in a Cause against a Marriage, or for the disinheriting any Man; as also Advocates, who maliciously raise Objections against the Consummation of a Marriage, or procure them to be raised; or that the Process may be delay'd contrary to Justice.

^a This is meant of Proctors, who produce Witnesses in form of Law.

We excommunicate all who for Lucre, Favour, Ill-will, or any other Cause maliciously charge with Crimes such Men as have preserved their Reputation with the good and grave; that they may give them the trouble of a Purgation, or otherwise ag-
grieve

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grieve them; and all those who upon the vacancy of a Church maliciously * oppose, or cause to be opposed, the Inquest concerning the right of Patronage, in order to defeat the true Patron of the y Collation, for that turn at least: And those who for Favour, Lucre, Ill-will, or other Cause refuse to execute the Mandates of the King against such Excommunicates * as despise the Keys of the Church; [and all that are guilty of wilful Fraud in paying due, and accustomed Tithes to their own Parish Churches, that is of the Fruits of the Earth, and of Trees, of Hay, whereever it grew, of Pannage of Swine, Garden Herbs, Bees, Food of Animals, and their Young, Wool, Milk, Cheeses, however made, and all things yearly renewing, Fishings, Huntings, Mills, Trade, Handicraft, and other honest Labours; and of all things due by Law, or Custom; and all that aggrieve the Religious, Clerks, or beneficed Men, or their Tenants on the Lands of the Church with Tributes, or Taxes for making Walls, or Dikes, for Carriages, or other undue Exactions. Let this General Excommunication

* The practice in this Age was upon the Death of the Incumbent to have a Jury consisting half of the Clergy, half of the Laity, the Bishop, or his Vicar, or the Archdeacon presiding as Judge, in which the right of Patronage, and the Qualifications of the Clerks presented were determined: It is said these Juries, or Inquests were held of Course, or however for the most part; and therefore it is here presumed, that they who opposed the having such an Inquest, had some turn to serve by it, and are therefore here censured. See Bishop Gibson's *Code*, p. 815. Sir H. S. has, *se opponunt super jure Patronatus*.

y One would think that these Prelates by using the Word *Collation* design'd this Provision in Favour of Ecclesiastical Patrons only; but *Lindwood* takes it as concluding Presentation and Institution.

* Excommunication is despised, says L. 1. When
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the Excommunicate adds to his Fault. 2. When he comes into the Church, tho' Divine Service be not then said (unless it be to hear Sermon, and to go out as soon as that is done.) 3. If he stand without at the Church Door, while Divine Service is saying; (and Clergymen, if they know it, and do not forbear celebrating Divine Offices are to be punish'd with Excommunication. *Decretal. L. 5. Tit. 39. c. 18.*) 4. If he thrust himself into Communion with other Men, when it is in his power to avoid it. 5. If he continue long under the Sentence. In forty Days the secular Arm is invok'd in *England*: If he continue under it for a Year he may be treated, as one suspected of Heresy.

communication be publish'd by every Parish Priest in his Holy Vestments, with Bells tolling, and Candles lighted before the whole Congregation in the Mother Tongue on *Christmas, Easter, Pentecost, and Alballows-day*.

2. That every Prelate have his ^a Almoners, and that Prelates themselves be hospitable, and at convenient Seasons hear the Causes of the Poor, and do them Justice in publick, and sometimes hear Confessions, and give Penance; and frequently have their own Sores healed by proper Confessors; and be careful to ^b reside in their Cathedrals on some of the double Feasts, and some part at least of Lent, as they shall see best for their Souls; and that they cause the Profession which they made at their Consecrations to be read to them twice a Year, that the oftner they hear it the better they may remember it.

^a Sir H. S. *Clericos Eleemosynarios*.

^b *Lindwood* here affirms, that by the Common Law [of the Church] the Bishop is tied to be Resident in his Church every *Lord's Day*.

3. That no Prelate, when he collates to a Church, or Prebend, usurp the mean profits of it; nor extort

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tort any thing for ^c Institution, or giving Possession; nor for the Instruments to be drawn on this occasion: Nor let the Archdeacon, or Dean permit any thing to be extorted by their Officials.

^c *Lindw.* here distinguishes Collation, and Institution, as two Acts, that in some Cases are to be consequent one upon the other: I suppose it may be the same with Admission (as it is now call'd) and Institution, which differ, as the Promise, and the Performance of it. And he allows, that by special Privilege, or custom mean Profits may belong to the Ordinary notwithstanding this Constitution.

4. For the rooting out of Idolatry, that is Covetousness, from Bishops, we decree that if any one be presented to a Church, and ther be no Canonical opposition, and the Clerk presented be not insufficient, let not his Admission be delay'd above two Months: Or else let whatever Fruits of the Benefice have come into the Bishop's Hands since the Presentation, be restored to him on his Institution. If the Archdeacon hinder him that is canonically presented from being ^d admitted within the time prescribed by ^e Council, let the same Rule be observed in relation to them; except they can assign a reasonable cause for it, when call'd upon by their Superiors.

^d It seems plain, and *L.* allows, that by *Admission* here you are to understand Induction.

^e *Lateran* at *Rome*, *A.D.* 1179. under Pope *Alexander* 3. *c.* 8. Where six Months is the utmost Space allowed for the vacancy of a Church.

5. If two are presented to the same Church, let the Custody of it, pending the Suit, be given to neither of them. If the right of Collation lapse to the Bishop by Authority of the Council, before the dispute between the two Patrons, who have both presented their Clerks, is ended; let the Bishop give the Church to neither of those

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Clerks, unless by consent of both Patrons; that so neither of their Rights be in the least prejudiced, when he hath carried his Cause as to the Right of Patronage. [And tho' by Canon Law the Patron being of the Clergy has six Months time to make his Presentation, but if of the Laity four Months, yet by a ^f Statute of the King of *England* each hath six Months.]

^f This seems a mistake; for I take it to be by Custom, or Common Law, not by Statute, that the Lay-patron hath six Months.

6. We decree with the General & Council, that both the nocturnal and diurnal Office be celebrated with Diligence and Devotion, as God gives Ability: And that all the Sacraments, those of Baptism and of the Altar especially, be performed with such Devotion as God inspires: That the Words of the Canon, especially of the Consecration of Christ's Body, be perfectly pronounced. After the Priest hath received the Lord's Body and Blood at the Altar, let him not ^h twice drink the Wine pour'd into the Chalice, or spilt on his Fingers, tho' he do celebrate again the same Day.

^g *Lateran* under *Innocent 3. A. D. 1216. c. 17.*

^h The Priest was obliged after every Mass to have Wine pour'd into the Chalice, that so the remains of the Sacramental Blood might be clean washed out of the Chalice; and he was for the same reason to suck, or lick his Fingers, lest any Particles of the Sacrament should stick to them, and to drink the Wine put in to wash the Chalice; but he could not do this if he knew he was to celebrate a second time: For the drinking of the unconsecrated Wine broke his Fast, tho' drinking of the consecrated Cup did not, and the Mass was to be celebrated only by such as were fasting. This I take from Bishop *Lindwood*.

7. We forbid any Priest to celebrate Mass twice on the same Day, except *Christmas* and *Easter*, or when

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when a Corps is buried : In which [last] Case the first Mass must be that for the Day, the second for the Dead.

8. We ordain, that benefic'd Clergymen, or Clerks in Holy Orders, be not Stewards of Farms, Bailiffs, or Seneschals, and so bound to ⁱ give an Account to Laymen, and especially that they meddle not in Causes of Blood.

ⁱ By Canon Law he that hath undertaken a Guardianship, for which he hath not pass'd Accounts, is incapable of Orders. *Decretal. Lib. Tit. 19. vid. infra.*

9. Nor let the Causes of Blood be tried in Churches or Churchyards. And we forbid, by the Authority of the ^k Council, all Clerks that are benefic'd, or in Holy Orders, to write or dictate Letters for inflicting of Death, or to be present at Trials concerning Life and Death; for they are unworthy of the Church's Protection, who bring so much Scandal to the Church.

^k The General Council says Sir *H. S.* and the *Oxford* Copy; but I believe *L.* in the right, when he says it was *this present Council*; yet the same Writer well observes, that Bishops, who had a Civil Power vested in them, might grant Commissions to their Judges, who were to sit on Life, and Death.

10. We strictly command Parish Priests to feed the People with the Word of God, as God inspires them with it, lest they be justly thought dumb Dogs: And let them remember, that they who visit the sick, shall be rewarded with the eternal Kingdom: Therefore let them chearfully go when sent for to the sick.

11. We ordain, that every Church have a Silver Chalice, with other decent Vessels, and a clean, white, large Linen Cloth for the Altar: Let the old Corporals which were not fit for the Altar, be put in the Place appointed for the Relicks, or be

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burnt in Presence of the Archdeacon (if they are consecrated.) And let Archdeacons take care, that the Cloths, and other Ornaments of the Altar be decent; that Books be fit for Singing and Reading; that ther be two Suits of Vestments for the Priests; and that the Attendants at the Altar, wear Surplices, that due Esteem be paid to Divine Offices.

12. ¹ We strictly forbid any Man to resign his Church, and then accept the Vicarage [of the same Church] from his own Substitute: Because in this Case some unlawful Bargain may well be suspected: Let the one of them who presume to do this, be deprived of his Parsonage, the other of his Vicarage. And we judge it absurd, that he who is Parson of a Church, should confer any Part of that Parsonage to another under the Title of a Parsonage; unless he first absolutely resign the whole Benefice. [Nor let it be allow'd to any one to assign any Portion of his Church to another, under the Title of a Benefice, so as that it may be held with another Benefice, to which the Cure of Souls is annex'd.]

¹ It may seem strange that any one should chuse to be Vicar rather than Rector; but as ther might in some particular Cases be other reasons for it, so ther was one very apparent one, viz. that the *Lateran* Council under *Innocent* the Third, 1215. had forbid the holding two Churches, that is Rectories, but not two Vicarages, or a Rectorie, and a Vicarage. For tho' the *Lateran* Canon against Pluralities was not yet put in Execution here; yet the Clergy were apprehensive that this would soon be done.

13. To prevent Spiritual Bigamy, we strictly forbid, with Consent of the Council, that any Church be committed to two Rectors, or Parsons: And in Churches where ther are several Parsons, let the Portion of those that die, accrue to the
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the Survivors, till the whole come to one Man : Nor let two Vicarages be in the same Church, excepting where the Division is ancient.

14. We ordain, that no Bishop admit any one to a Vicarage, unless he be willing personally to minister in the Church in which the Vicarage is granted him, and be fit within a short time, to be ordained Priest. If he who has been admitted, refuse to be ordained Priest, let him be deprived of the Benefit of the Vicarage.

15. We ordain, that Churches not worth above five Marks a Year, be given to none but such as will personally reside, and minister in the said Churches: Let them who do not, be deprived by the Diocesan, after due Admonition.

16. Abundance often breeds Neglect, Indigence Beggary, to the Scandal of our Order; We therefore chusing the Medium, ordain that an Estate which may be let to farm for five Marks at least, be assigned to the perpetual Vicar, excepting in those Parts of *Wales*, where Vicars are content with less, by reason of the Poverty of the Churches. Let the Diocesan, after due consideration had of the Value of the Church, determine whether the Parson or the Vicar, or both together, are to bear the Charges of the Church. Provided still, that the Archdeacon be content with one Procuration, whether from one or both.

17. We determine that in every Church, that has a large Parish, ther be two or three Priests, according to the largeness of the Parish, and the Estate of the Church; lest when one Priest is sick, or disabled, divine Offices, and the Sacraments of the Church be withdrawn from the Parishioners, especially such of them as are infirm.

18. And that the Bishop take an Oath from the presented Clerk, that he has neither given nor promised any thing to the Presenter for the Presenta-

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tion; nor entred into any Covenant to this purpose; especially if ther be any probable Suspicion in relation to the Party presented.

19. To prevent the Want of Confessors, and because some Rural Deans and Parsons are asham'd to confess themselves to their Prelates, we ordain, that certain discreet Confessors be appointed by the Bishop, with the Assistance of the Archdeacon, to take the Confessions of Deans, Parsons and Priests. In Cathedrals where ther are secular Canons, let them confess to the Bishop or Dean, or to the Confessors assigned them by the Bishop, Dean and Chapter.

20. We ordain, that Rural ^m Deans presume not for the future, to hear Matrimonial Causes; but that the Examination of them be committed to discreet Men, who are to be Co-assessors, when the Sentence is pass'd, if conveniently it may be.

^m L. affirms that the Dean of the Arches has not this Power, except by special Commission; yet he owns, if they had a perpetual Title to their Places they might; For then they were removeable at Pleasure, but now they are for Life.

21. We forbid with the ⁿ Terrour of *Anathema*, any one to retain Robbers in his Service for committing Robberies, or knowingly to let them dwell on his Lands.

ⁿ L. here produces the Opinion of Canonists who affirm, that such Threats of *Anathema* may bind, that is excommunicate, or lay under Excommunication the Offender; upon Supposition, that it was the Intention of them that pronounced it actually to bind them.

22. That Archdeacons may not be burdensome to the Churches subject to them, we strictly forbid them to exceed the Number of Horses, and Men prescribed by the General ^o Council, and to invite

^o See Council of *Hubers Walser*, Archbishop of *Canterbury*, A. D. 1200. Can. 5.

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invite Strangers to the Procuration made for them on account of their Visitation (tho' the Rector may invite any that he pleases, in honour to the Archdeacon.) And for this reason we forbid the Archdeacons to hold their Chapters in the Church that is visited ^p on the Visitation Day, except it be in a Borough or City.

^p Here *L.* observes, that the Visitor might lodge, and take both Dinner and Supper with the visited Incumbent, and not more.

23. We strictly forbid Archdeacons to extort a Procuration, ^q without reasonable Cause, but on the Day in which they personally visit the Church, and that they don't squeeze Money from the Church as a Fee or Ransom, for not visiting.

^q A reasonable Cause of visiting by another is Infirmary, says *L.*

24. That Archdeaconries and ^r Deanries, which consist merely of Spiritualties, be not ^s let to farm; but if any Estate be annex'd to the Office, that may be farm'd out. And we ordain the same as to other Benefices. If any Archdeacon, or Dean be convicted of transgressing this Decree, let him be wholly suspended from his Office by the Bishop for a Year, and let another be substituted, who may with more Discretion supply his Place.

^r Such as *Shoreham, Croydon, &c.*

^s If, says *L.* the Archdeacon allow a certain Sum by the Year to his Official, on Condition, that the Official be answerable to him for the whole Profits, this is lawful; but if he let it on Condition, that the Official pay him a certain Sum by the Year, and keep the rest to himself, this is forbidden.

25. Let Archdeacons take care in their ^t Visitations,

^t Here *L.* affirms, that Archdeacons have of common

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mon right Power to visit by way of Enquiry, but they have no Power of Correction without custom, except for slight Matters.

tations, that the Canon of the Mass be correct; and that the Priest can rightly pronounce (at least) the Words of the Canon; and of Baptism; and that he knows the true Meaning of them: And let them teach Laymen in what Form they ought to baptize in case of Necessity, in some Language or other. And let them look diligently, according to the General Council, that the Host, the Chrism, and holy Oil be kept under Lock and Key. And let them have all the Ornaments and Utensils of the Church set down in Writing; and let the Books and Vestments be view'd by them ^x every Year; that they may know what Additions are made by the Parsons Diligence, or what the Church hath lost.

^a *Lateran*, A. D. 1216. under Pope *Innocent* the Third, c. 20.

^x That is, says *L.* every year, in which they visit, for in *L.*'s time the Archdeacons Visitation was triennial, but in the time of making this Constitution it was undoubtedly annual: They were now bound to visit triennially, but might do it oftner, if they saw occasion.

We forbid Archdeacons, Deans, and their Officials to levy Taxes, or make Exactions on their Subjects.

26. We decree, that Archdeacons, and their Officials, publish the Sentence of ^y Excommunication,

^y *L.* observing here the difference between those who unduly pass Sentence of Excommunication, and those who unduly pass Sentence of Suspension, and Interdict, makes this farther Reflexion concerning the Agreement, and differences between the Sentences themselves, which seem to me very instructive: First, says he, they agree in ten Points. 1. That the Sentences must be pronounced

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pronounced *è scriptis*. 2. A preceding Appeal protects the Appellant from any of these Sentences. 3. None under any of them ought to celebrate. 4. A preceding Admonition is necessary in each Case. 5. An Oath [to submit to the Church] is necessary to obtain Absolution, by way of precaution, and upon such Oath Absolution is so granted in each Case. 6. Each Sentence is to be observed by Superiors (tho' pass'd by inferior Ordinaries). 7. Because none under either Sentence, can elect or be elected, or give Testimony. 8. That nothing ought to be determined in any Matter relating to these Sentences, without citing the adverse Parties. 9. Because the special Sons of the Apostolical See (that is some particular Friars, and exempt Regulars) are not subject to these Sentences (I suppose he means, except they are inflicted by the Pope himself.) 10. They are all called by the name of *Ecclesiastical Censures*. They differ in nine Points. 1. With one suspended or interdicted it is lawful to communicate, without a special Prohibition, but not with an Excommunicate. 2. Because in strictness *the Man* is excommunicated, or suspended, *the Place* is interdicted. 3. Because the effect of Excommunication already pass'd cannot be suspended, but the effect of the other Sentence may be suspended. 4. Because a Relaxation of Interdict pass'd in general on a City or Army, cannot be granted by way of Precaution, but an Absolution from Excommunication may be so granted (that is the Excommunication may be suspended, if he profess his Innocence, while he is making his defence in Court: For he could not be heard while under actual Excommunication.) 5. Because a general Sentence of, Excommunication binds a Bishop, tho' he be not named; but not a general Sentence of Suspension or Interdict. 6. Excommunication is not inflicted upon any great Body or College of Men in general, but an Interdict is. 7. Excommunicates (so remaining) are not admitted to Penance, till the point of Death, but those under Suspension, and Interdict are. 8. On certain Festivals those under Interdict are admitted into the Church, but Excommunicates never. 9. Excommunication is never pass'd upon one Man for the Fault of another, but Interdict, and Suspension are [pass'd on Subjects, and Servants for the Faults of their Lords, and Masters.] *Caldrini*, says L. adds a
5 10th,

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10th. That Interdict cannot be pass'd on account of Money without the Pope's leave, but Excommunication may. L. supposes, that an 11th may be added, that he who (unduly) passes the Sentence of Excommunication has a certain Punishment assigned for him; but he who (unduly) passes a Sentence of Suspension or Interdict is to be punished at Discretion, as by this Constitution.

cation, Suspension, or Interdict against none without Canonical Warning, unless where the Excess be manifest. Let him that excommunicates any one otherwise, be subject to the Punishment declared by the *Lateran* 2 Council; for suspending or interdicting, let him be punish'd at the Discretion of his Superior: And let the Superior Prelates observe this.

2 The Punishment declared by the *Lateran* Council, A. D. 1216. c. 47. is, to be forbidden entrance into the Church for a Month.

27. We firmly forbid Burial, Baptism, any Ecclesiastical Sacrament, or the contracting of Matrimony to be denied to any on account of Money. Our Will is, that the Ordinary do Justice as to what is used by Custom to be given, according as it is more largely expressed in the Statute of the 2 General Council. To demand any thing for Chrism, or the Holy Oil, we judge unreasonable, because it has so often been forbid.

* *Lateran* Council, 1216. c. 66.

28. That Archdeacons and their Officials do not obstruct Peace, but give leave to the Parties to agree, or withdraw, by compounding, without any Demand on that account; so that the Suit be such as admits of Composition; and that he inflict no Punishment on them on that account; unless the Unrighteousness of the Plaintiff, or Defendant be very manifest.

29. We strictly forbid Archdeacons, their Officials, and other Judges, to bring any Man who
has

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has preserved his Reputation among the good and grave, to a Purgation, at the Suggestion of their Apparitors: Nor let them be Judges, and Plaintiffs in the same Cause, as when the Question is, whether what they demand be due.

30. ^b We decree by the Authority of this present Council, that Archdeacons, Deans, all Parsons and Dignify'd Men, all Rural Deans and Priests, go in a decent Habit with close Copes: The

^b It is evident that these *Constitutions* of *Langton* are for the main but Transcripts from the *Lateran Council* 1216. with some variations made by our Prelates; and this is true of those *Constitutions*, where that Council is not mentioned, as well as where it is. To this purpose I will transcribe the words of that Council, c. 16. relating to the Apparel of Clergymen, viz. *Clerici—clausa deferant insuper indumenta nimia brevitatem, vel longitudine non notanda. Pannis rubeis, aut viridibus, necque manicis, aut secularibus consutitiis, seu restratis, fransis, sellis, pectoralibus, & calcaribus deauratis, aut aliam superfluitatem gerentibus non utantur. Cappas manicatas ad divinum officium intra Ecclesiam non gerant; sed nec alibi qui sunt in Sacerdotio, vel Personatibus consti uti.* It is evident from hence that the close Cope mention'd so often in our *English* *Constitutions*, was a Garment of the same make with the officiating Cope; and the close Cope was a Cope without Sleeves; both these particulars I infer from the Words of the *Lat. Council*; viz. Let Clergymen wear Garments close in the upper parts—let them not wear Copes with Sleeves, in divine Offices in the Church, nor any where else, if they are beneficed Priests. *L.* farther informs us, that this Habit never prevailed here in *England*; he does in effect say the *Constitutions* relating to it were never received: And some do think, that Non conformity in this Point was venial: For thus he concludes, that where there is no Penalty assigned, or a contrary use is not forbidden, there common Observation is stronger, than a Constitution, and excuses. *L.* farther asserts, that no Colours were forbidden the Clergy but red, and green, tho' they were not to wear strip'd, or particolour'd Garments; otherwise they were perfectly at Discretion, both as to fashions and Colours.

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The same is to be observ'd by the ^c Officials of Archdeacons, when in Consistory: And let none of these, nor any other Clerks, wear long Hair, but be decently clip'd and crown'd; unless they disguise themselves out of a just Fear. Let them also abstain from immoderate Eating and Drinking, and be compel'd to the diligent Observance of all these Particulars by their Superiors, according to the Direction of the ^d General Council.

^c Officials of Archdeacons are particularly mentioned, as being not comprised in the foregoing Terms: For *L.* says they are not *Dignitaries*; and it often happened, that they were not Priests.

^d *Lat.* Council aforesaid, c. 17.

31. Let not Clergymen that are benefic'd, or in Holy Orders, ^c publickly keep Concubines in their Manſes, or have publick Access to them with Scandal, any where else. If the Concubines after Admonition publickly given, do not get them gone, let them be expell'd from the Churches, and not be admitted to the Sacraments: If they still persist, let them be excommunicate, and the secular Arm be invoc'd against them. As to the Clergymen themselves, let them, after Admonition be restrained by a Subſtraction of their Benefice.

^c Is it lawful therfore to do it privately? Says *L.* and answers, they are excused as to the Punishment, tho' not as to the Crime.

32. Tho' we would have the lawful Testaments of benefic'd Clergymen to be regarded; yet if they leave any thing to their Concubines, let it be converted to the Use of the Church of which the Deceased was Rector, at the Discretion of the Bishop.

33. We ordain that no Abbot, Prior, Archdeacon, Dean, Parson, Dignitary, or inferior Clerk,
do

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do sell, mortgage, alienate by an Infeofment, or by any other Means, to their Kindred, or any other Persons, the Estates belonging to their Churches, or Dignities, without observing the ^fForm of the Canon; and that all that is done to this purpose, be null; and that the Offender be deprived of his Dignity, Parsonage, or Church, by his Superior, unless within a time prefix'd, he do at his own Cost restore what has been alienated. And let him be excommunicate, who for the future receives the Goods of the Church, and detains them after Admonition, and not be absolved till he makes Restitution. Let the ^ggreater Prelates observe the same.

^f *Causa* 12. *Quest.* 2. is very full of Canons to this Purpose, I am apt to think the fifty sixth Canon is here particularly meant, which obliges him that alienates from the Church to give as much of his own, as he takes away.

^g That is the Bishops, who by the seventy fourth of the Canons just now mentioned were allowed to give away but one fiftieth part of the Estate of the Church even to a Monastery, but an hundredth to any other Church, And all Bishops were forbid to alienate without consent of Chapter, and unless it were in order to obtain somewhat better, than was alienated.

34. Whereas some do (which we cannot speak without Tears) spend their Ecclesiastical Revenues in building Houses on Lay Fees, for their Sons, Nephews; nay, for their Concubines, and so misapply the Goods of the Church designed for the Use of the Poor: Now we decree, that they who are suspected to do this, or to give Money for the doing of it, be punish'd at the Discretion of their Superiors; unless they make their Purgation at his Discretion.

35. We ordain, that the ^hObedientials of Monasteries,

^h That is the Cellarer, Chamberlain, Treasurer, &c.

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nasteries, as well as the ⁱ greater Prelates, do twice or four times in the Year, yield up their Accounts before the Brethren assigned by the Convent, or before their Superiors, according to the Custom of the Monastery: But such Prelates as have Estates distinct from those of the Monks, are not bound by this Constitution.

ⁱ Abbots, and Priors.

36. We decree that Nuns, and other Religious Women, wear no Silk Veils, nor Needles of Silver or Gold in their Veils; that neither Monks nor Canons Regular, have Girdles of Silk, or garnish'd with Gold or Silver, nor use ^k Burnet, or any irregular Cloth. Let the dimensions of their Clothes be commensurate to their Bodies, not longer than to cover their Feet, like ^l *Joseph's* Coat, which came down to the Ankles. Only the Nun may wear a Ring, and but one. Let the Offenders be subject to regular Discipline, if they mend not on Admonition.

^k Artificial brown: For natural brown was the proper colour of their Habit.

^l *Polymita*, & *talari*. vulgar Lat. Gen. xxxvii. 23.

37. Inferiours are to have a Pattern of their Life from the ^m Abbots, therefore we decree, that Abbots change their Chaplains, or Chaplain (if they have but one) every Year; that so they may have more Witnesses of their Innocency in case of Scandal.

^m The *Oxford* Copy says Abbesses, which to me seems a more probable reading.

38. That Prelates of Religious Houses do not give or sell ⁿ Corrodies, or Stipends either for Life, or for a certain time, unless for urgent Necessity with the Bishop's Consent.

39. That

ⁿ Certain Portions of Meat, Drink, Money, &c. delivered

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livered every Day, Week, or Month, &c. otherwise call'd Liberations, or Liveries.

39. That nothing be demanded for the Reception of any one into a Religious House: If he that is to be admitted, be forced to buy his own Clothes, by reason of the Poverty of the House, yet let nothing be exacted beyond the just Price.

40. That Monks, Canons Regular, and Nuns, have but one Dormitory [for their several Houses] and a single Bed for every single Person; that they eat in one Refectory altogether on the common Provisions; that not Money for Clothes, but Clothes be delivered to every one by their Chamberlain, or other Officer; that upon the Delivery of new Clothes, the old ones be returned for the Use of the Poor, or other Necessities, at the Discretion of the Superiors, without giving any thing for the new ones, or receiving any thing for the old ones, on Pain of loss of Office to the Chamberlain, and that the Monk or Nun have no new Clothes for that whole Year.

41. Let none be admitted Monks under ° eighteen Years of Age, unless evident Utility, or Necessity require.

° The Decree, *Quia autem, Caus. 20. Quest. 1. c. 5.* bearing the name of *Gregory the Great*, gives a reason for this which is peculiar to Islanders (for fourteen is the Age in other Countries) viz, *Quia dura est in Insulis Congregatio Monachorum.*

42. Let neither Clergymen nor Laymen, have frequent Access to Nunneries, without reasonable Cause. Let Bishops take care that Nuns be competently maintain'd by their Monasteries, and that they therefore do not exceed their proper Number, under Pain of Deposition to the Abbess or Prioress, as also to the Masters as Priors that have the Custody of the Nuns. Let the Nuns make

H

Confession

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Confession to Priests appointed by the Bishop. Farther, We forbid Nuns to receive Seculars to dwell with them (excepting necessary Servants) within the Verge of their Houses, but with the Bishop's Consent.

43. We injoin ^p Silence to Monks, Canons Regular, and Nuns, at Times and Places appointed; and that neither Men nor Women come within the Bounds of a Cloister, without leave of the Superior; nor may the [religious] go out except leave be given for some reasonable Cause, nor even to visit their Parents, unless they are such as are liable to no just Suspicion; and not even then without a Mate, and a Day prefix'd for their Return. In case the Bishop, Abbot, or Prior (where ther is no Abbot) send a Monk guilty of an Excess, to any other Monastery in the same, or another Diocess, and the Bishop compel him to be admitted, let him be there subject to regular Discipline, and let him stay till he be reformed; and if the Time be long, let another Monk be sent to the other Monastery in his room, till the Penitent be call'd home by his Superior. [But if the Monastery send none in his room, let the Monastery from whence he came, find him in Clothes.] But let not the Monk be received into the other's Monastery, by any secret Confederacy.

^p Silence was always to be kept in the Oratory, Refectory, and Dorter, and at certain Hours in the Cloister, or places of Conversation, and Instruction. See *Decretal. l. 3. tit. 35. c. 6.*

44. Let the Fare of all in the Refectory be the same. The Head of the House may have such Provision prepared for him, as he sees proper for the Relief of the Sickly. Let the whole Provision be set on the Table without any purloining, and the Remains wholly be given to the Needy, by the Almoner. Neither Abbot, nor Prior, nor Almoner, may dispense with this. And whoever
2
breaks

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breaks this Statute, or that concerning Clothes, let him be suspended from the Celebration of Divine Offices, if he be a Priest; from receiving the Communion till full Satisfaction be made, if the Offender be in inferior Orders, or a Nun. [And let no Nun eat Flesh by her self in the Refectory, where Flesh is not commonly eaten.]

45. Since Religious Persons have no Property, therefore let them not presume to to make a Will: For they have no Temporal Right to transfer to another.

46. [Let neither a Canon Regular, nor Monk, take any Church or Manor to farm, that belongs to his own ^q Church, nor have any Manor committed to his Custody, unless he be an ^r Obediential: Let the Offender be corrected by his Superior. Let not Religious take any Churches to farm, so as to claim any Right after the Death of the [present] Parson: If they do, let them be punished at the Discretion of their Superior.

^q That is his Monastery: As a Parochial Church often implies the Parsonage; so a Monastic Church implies the Monastery belonging to it.

^r See Conf. 33. All the Officers of the Monastery were called Obedientials.

47. Let neither Monks, nor Canons Regular, spend time in eating or drinking, save at the stated Hours. They may by leave, quench their Thirst in the Refectory, but not indulge. Here we except the Infirm, and such as attend the Prelates.

48. We ordain, that when the Monks for any just Cause are under a ^t Relaxation, they have two Seniors with them to awe the rest, and to check

^t That is in their Country Seats, which they had for this purpose. Si: *H. S's* Copy has *Maneria*, the *Oxford Misericordia*. One explains the other; *L.* takes no notice of this Constitution.

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their Levities, and testify their good Behaviour under their Relaxation. We would have the same observed by Canons Regular and Nuns.

49. We ordain, that no Churches belonging to particular Parsons, be let to farm, but for a just Cause, approved by the Bishop, and to one in Orders, of whom it may be presumed, that he will apply the Fruits to good Uses.

50. Because Marriages are often obstructed by Advocates, we ordain, that when Sentence is given in favour of a Marriage, the Advocate who opposed it, be deprived of his Advocateship for one Year, unless the Judge in giving Sentence, excuse him on account of such Error or Ignorance as just and rational Men may be guilty of.

* Who start false Objections, and make frivolous Appeals, says *L.*

51. [“ We charge that for the future, *Jews* do not keep *Christian* Slaves. Let the Slaves be compelled by Ecclesiastical Censure, to observe this; and the *Jews* by Canonical Punishment, or by some extraordinary Penalty contrived by the Diocesans. Let them not be permitted to build any more Synagogues; that they be look'd upon as Debtors to the Churches of the Parishes wherein they reside, as to Tithes and Offerings.]

52. To

“ These two last Constitutions are only in the *Oxford* Copy: Yet it is very probable, that they are genuine, because they agree in the main with the sixth Title of the fifth Book of *Decretals*, which relates wholly to the *Jews*: And the sixty eighth Canon of the Council of *Lateran*, 1216. enjoins them a distinct Habit. When these Constitutions speak of a Canonical Punishment to be pass'd on the *Jews*, they can mean no more, but a Prohibition of mutual Commerce between *Christians* and *Jews*; if they mean, that the *Jews* were under their Cognisance, as Pastors of the Church of *Christ*, it is

MCCXXIII. *Supposed Constitut. &c.*

is certain they only exposed themselves; they might as well claim Authority over the *Indian* Brachmans. I do not observe, that the Canon Law pretends to lay any Censure upon the *Jews*, but only in some Cases forbids *Christians* to deal with them, and this was more than could be justified. *L.* was wise not to meddle with these Constitutions.

52. [To prevent the Mixture of *Jewish* Men and Women with *Christians* of each Sex, we charge by Authority of the General Council, the *Jews* of both Sexes, to wear a Linen Cloth two Inches broad, four Fingers long of a different Colour from their own Clothes, on their upper Garment before their Breast; and that they be compel'd to this by Ecclesiastical Censure. And let them not presume to enter into any Church, nor for that end to lodge their Goods there. If they do, let them be corrected by the Bishop.]

To give a good Conclusion to all, we charge that the *Lateran* Council, celebrated by *H. Innocent* the Pope, be observed by all, as to the Payment of Tithes, and all other Matters: And that the Constitutions therof, together with these, be read and explained yearly in the Episcopal Synods, as also the Excommunications publickly enacted in this Synod, which are likewise to be read four times in every Year in the Parish Churches,

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Supposed Constitutions of Archbishop Langton.

HERE is evidently the Conclusion of this Council; but in the Oxford Copy eleven more Constitutions are added; the first of these I find no where else, and therefore here present it to my Reader.

H 3

1. Baptism

MCCXXIII. *Supposed Constitutions of*

1. Baptism shall be celebrated with great Reverence and Caution, and in the prescribed Form of Words, wherein the whole Virtue of Baptism consists, and likewise the Salvation of the Children, that is, *I baptize thee in the Name of the Father, and of the Son, and of the Holy Ghost.* Amen. And let a Name be given to the Child, and [let it be done] in the * Language which is best understood by them. Let Priests often instruct Laymen, that they ought to baptize Children in Case of Necessity, and it may be done even by a Woman, or by the Father or Mother of the Child. Let the Priest diligently enquire of the Laymen, who has baptiz'd a Child, what he said; and if he find that it was done discreetly, and in due manner, and that he pronounc'd the Form of Words in his own Tongue, let him approve what has been done; but if not, let him rebaptize the Child. Let three at most be allowed to y lift the Child out of the Font. If the Children are baptized by Laymen, let the Priest perform what follows the Unction, not what goes before. If ther be any doubt of a Person's being baptized or confirm'd, let the Sacrament be administered without Hesitation: That cannot be said to be repeated, which is not known to have been done at all: Let such as are found with z Salt, be baptized if ther be any doubt of their Baptism: And in Honour to Baptism, let the Water with which

* Lat. *Forma*.

y This was the Godfather, or Godmother part.

z It is evident, that they who exposed Children used to lay Salt upon them. Whether they intended by this to signify, that they were, or were not baptized, I do not certainly find; but it seems probable, that they meant thereby, the Child was baptized; yet this was not allowed to be a sufficient proof of it. I am persuaded that this was a Constitution made about this time, or perhaps never properly made, but only designed as a rough-draught; or else this was a hasty transcript.

Archbishop Langton. MCCXXIII.

which the Baptism was perform'd, be thrown into the Fire, or be carried to the Church to be put into the Font. Let no Deacon, or inferior Clerk baptize, or injoin Penance, but only Priests, except in absolute Necessity, when the Child, or sick Man are in the utmost Danger of Death, and the Priest is absent; or if he be present, yet cannot, or foolishly will not do it. We charge that the Vessels in which any have been [so] baptized, be carried to Church, and there applied to some necessary Use, and not to any common Purpose, out of Reverence to the Sacrament. We charge that the Fonts in which Children are baptized, be of Stone; or, however, whole and decent, that they may occasion Contempt or Aversion in none, but be had in Veneration by all.

2. This is the same with the second of *Walter Reynold*, A. D. 1322.

3. This the same with the fourth, *W. R.* aforesaid.

4. This is the same with the eighth of *W. R.* aforesaid: The last Clause of the fifth is also added to the Word *Confession*, or rather the whole ninth and tenth.

5. This is the same with the third of *W. R.* aforesaid, but it wants the last Clause.

6. This is the same with the seventh of *W. R.* aforesaid, with a Clause added against Rural Deans hearing Matrimonial Causes: And tho' Archdeacons and their Officials are permitted to hear them, yet none but the Bishop or his Vicar, to determine them.

7. This is the first of *W. R.* aforesaid, save that the particular Crimes that disqualify for Orders, are not inserted; and a Clause is inserted before the last, requiring *Rectors commonly call'd Parsons*, to be Subdeacons.

MCCXXIII. *Supposed Constitut. &c.*

8. This is the seventh of *Simon Mepham* 1330, with an unintelligible Clause added.

9. This is the eighth of *Sim. Mepham* aforesaid; but it does not require the Procurator to be instituted.

10. Let Tithes, both predial and other, be paid entirely without Difficulty or Diminution, according to the Canons. And we grant to every ^a Parish Priest that they have Power of coercing the Detainers of Tithe within their Parish, and of excommunicating them if they are contumacious after Admonition: And let no Layman by any length of Time claim Immunity from paying Tithe, since according to the Institutes of the Canons, no Layman can prescribe in point of Tithes: Let no Deductions be made for Expences, especially in predial Tithes.

* The Parish Priest, who officiated under the Rector, or Vicar was a more proper Person to censure the People for neglecting to pay Tithes, than the Rector, or Vicar himself, who was a Party. See *Const. of Edmund*, 35. 1236.

11. This is the tenth of *Sim. Mepham*, 1330, together with the conclusive Clause of the fifty first Provincial Constitution of *Stephen Langton* repeated.

It seems to me, that these Constitutions are near as old as those of Steph. Langton, tho' not made by him. They were plainly Diocesan, and not Provincial Constitutions; for the seventh charges none to be ordained without our commendatory Letters, &c. nor to execute their Office in our Bishoprick: Whereas in W. R.'s Constitutions, the Words are, without Letters from their own Ordinaries, and within our Province. And in Const. 11. you have these Words, but by us, or our Authority; whereas in the tenth of S. M. the Words are, by any one inferior to a Bishop. It is evident that W. R. and S. M. use the

PREFACE. Wethershed's, &c.

the Provincial, these Constitutions the Diocesan style. It seems probable to me, that many Constitutions were first made in a Diocesan Synod, and then meeting with Approbation, were establish'd by a Provincial Authority, after proper Alterations made in the Words: And we shall find that sometimes such proper Alterations were forgotten to be made. Yet there are some Passages that may seem to import that the Constitutions in which they are contain'd, were Provincial; if so, we must pronounce them a confused Medley: However, the seventh seems to have been composed about this time, because it requires that Rectors be ordained Subdeacons. Afterwards, any Clerk, tho' only in inferiour Orders, might be Rector, tho' not Vicar.

A. D. MCCXXIX.

PREFACE. Archbishop Wethershed's Constitutions.

Richard Wethershed, by some styled the Great, now sat in the Chair of Canterbury. There are in the Oxford Copy twelve Constitutions ascribed to him. All but the last, are found in the Constitutions of Richard Successor to Becket. Lindwood has but five of them, which he ascribes to Wethershed; viz. the latter part of the first, the fifth, the ninth, which is the eighth of Wethershed's, and the sixteenth of Richard the first's, which is the eleventh of the second Richard, and the last of Wethershed's. It is very probable, that those attributed to the former, and that are not in the Oxford Copy, nor in Lindwood, were indeed publish'd by Wethershed. There can, I think, no doubt be made, that the former did make Constitutions in that Synod 1175, and that some of them ascribed to him, are really his; yet it
is

MCCXXIX. Wethershed's *Constitut.*

is impossible to distinguish which they are. But it is more probable, that Richard the second should cite Pope Alexander the third's Letter to Roger of Worcester, now when both had been near fifty Years dead, than that the first should do it, while they were both living. Pope Alexander's Letter to Roger in the Decretals, was A. D. 1177, after the first Richard's Council: And tho' he might have wrote to him before this, yet this gives some Umbrage to the contrary. It is more credible that ther were ten Prefaces in the Year 1229, than in the Year 1175; because Gratian's Decrees confined the Number to nine, and mention not that in Honour to the Virgin, which makes the tenth Preface, as they are reckoned in the fourteenth of the Constitutions aforesaid. The others, or at least some of them, nay, all of them, excepting the first and fourteenth of the first Set, and the last of the last Set, might first be made by Richard Becket's Successor, and be renewed by Wethershed.

Lat. The Constitutions Provincial of Richard Wethershed, publish'd at Westminster. He was consecrated Archbishop of Canterbury A. D. 1229. in the fourteenth Year of Henry the third, and the third Year current of Gregory the ninth. He sate but two Years.

THE seven first Constitutions of the two Richards, are the same. See Sir H. S. p. 103. Oxford Copy, p. 10, The ninth, twelfth, thirteenth and eighteenth of the first Richard, are the eighth, ninth, tenth and eleventh of the second Richard: The twelfth here follows.

Under Pain of *Anathema*, we forbid any Physician ^b to give Advice for the Health of the Body, which may prove perilous to the Soul, which is much

^b L. instances in a Physician's advising familiarity with

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with Women for the cure of some ill Humours, but denies any cures to be wrought by this means, but what may be done by other methods.

much more precious than the Body. But when it happens that he is called to a sick Man, let him first effectually persuade him to call for the Physicians of the Soul; that when the sick Man has taken spiritual Cure, he may with better effect proceed to the bodily Medicines. Let not the Transgressors of this Constitution escape the ^c Punishment appointed by the Council.

^c The Punishment laid on Physicians is a Prohibition from entrance into the Church till they have made Satisfaction, according to c. 22^d of the Council of *Lateran* under *Innocent* the Third, from whence this Constitution was taken.

A. D. MCCXXXVI.

PREFACE. *Archbishop Edmund's* *Constitutions.*

Edmund Rich, call'd also Edmund of Abindon, was advanced to the See of Canterbury, about two Years before this Date: He was remarkable for his Learning, and Piety, and Zeal for Reformation of Popish Scandals, by which he incurr'd the Displeasure both of King Henry III, and the Pope: He continued Archbishop eight Years, but spent great part of this time abroad, and at last died in a voluntary Exile; but was canonized for a Saint above two hundred Years after his Death. We hear nothing of the place where the following Constitutions were made, or who were present at the making of them.

A. D.

A. D. MCCXXXVI.
Archbishop Edmund's Constitutions.

Sir H. S. vol. 2. p. 199.

Lat. 1. **B**Y the Power of the Holy Ghost, we in the first place strictly charge all Ministers of the Church, especially Priests, diligently to examine themselves by the Testimony of their own Conscience, in what State, and for what End they enter'd into Orders. For we denounce them in general suspended from their Office, who contracted an Irregularity at the time of their entering into Orders, or before, or since, unless they are expressly dispensed with by ^d them that have Power to dispense. We conceive them to be Irregular as to the Premises, who have committed ^e Murder,

^d The Constitution supposes, that more than one had Power to dispense in this Case. (I mean according to *L.* for the other Copies speak in the singular number.) Yet 'tis a Maxim with the Canonists, that no one can dispense with Irregularities, but the Pope. Yet *L.* thinks that the Bishop has Power in many Cases, especially as to inferior Orders, and *sine-cures*, tho' not to Subdeacons, Priests, and Deacons, and Benefices with cure. He seems positive, that Bishops may dispense for Adultery, and such Crimes, as don't hinder a Priest from officiating, after he has confessed, and done secret Penance, and yet none but the Pope can dispense with Bastardy, want of some notable bodily Member, or the Irregularity incurr'd by performing divine Offices, while one is under Suspension, or other greater Censure. 'Tis evident that these Irregularities were great Snares to the Consciences of Men, who were nice and scrupulous; they were Perplexities to the Lawyers, and none but the Pope, and his Creatures reap'd any good from them.

^e If the Murder were utterly inevitable, no Crime, nor Irregularity was incurr'd: If the Murder were wilful, the Pope only could dispense, and he himself could not do it without a Strain: says *L.* he could only dispense,

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pense, if the necessity were inevitable: If he that committed the Murder, did it in lawful business, by chance, for want of care, or not for want of care; much more, if it were in unlawful business (as our Archbishop *Abbot* kill'd a Man in hunting, which was always forbidden to Men in Holy Orders) the Pope only could dispense with the Irregularity, so as to make him capable of Orders, if he were a Layman; or to restore him to the exercise of his Function, if he were already ordained.

der, or have been ^f Advocates in Causes of Blood, Simoniacs, Transactors of Simoniacal Bargains, or who knowingly received Orders from such as ^g were under that Blemish, or that were ordain'd by Schismatics, Hereticks, or such as were excommunicated ^h by Name, ⁱ such as have been twice married, or married to such as were not Virgins, Corrupters of Nuns, Excommunicates, such as get Orders ^k by stealth, Sorceries, Burners of Churches, and such like. For it is certain, according to the Traditions of the Holy Fathers, that they who being irregular do, without Dispensation perform their Ministrations, do it with Presumption, and Danger.

2. ¹ We

^f To be Advocate for the Defendant, especially, if Death did not follow, was by some Lawyers thought not to make Men irregular, but *L.* thinks it most safe not to go so far, for which he cites *John Ashbone*.

^g *A labe illi infectis*, so *L.* read as appears by his Note. Tho' all the Copies have it *infecti*, yet the Texture and Coherence will scarce bear that reading.

^h Not by a general Excommunication only.

ⁱ The Pope himself, says *L.* by his regulated Power cannot dispense with such an one so as to make him capable of Deacons or Priests Orders, but only by the plenitude of his Power; but if he be ordained in such a State, he can dispense with him as to the exercise of his Function. The Bishop may dispense with him as to inferior Orders.

^k That is, without the Bishop's Knowledge, or Examination

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mination, says *L.* This can scarce be supposed practicable, but on Supposition of vast numbers ordained by the same Bishop at one time, which must indeed have often happened, while ther were probably ten times as many Clergymen in the Nation, as at present. If some one Bishop, as he of *Lincoln*, do now ordain twenty upon the same day, it may be justly thought, that in times of Popery he might have occasion to ordain an hundred and fifty, or perhaps two hundred, and so give an opportunity to Intruders; especially, if the Bishop, or his Officers were not very exact in their Scrutinies, and see *Const.* 6. of Otto. But they are also by *L.* said to be ordained by stealth, who procured two, or more Orders in the same Day, or got superior Orders *per saltum* without going through the several degrees of the inferior Orders. I should think they might be said to be ordained *Furtivè* by stealth, who forged their Titles, or falsified their Age; but *L.* says nothing of this.

2. ¹ We add our strict Charge, that all who take Orders, while they remain under an habitual Impenitence for mortal Sin committed before, or only for temporal Gain, do not execute their Office till they confesse to the Priest.

¹ This, and the two following Constitutions are omitted by *L.* yet I can't but judge this a most excellent Admonition. The Man who is guilty in this respect ought, I conceive, to confesse his Sin not to a Priest only, but to all the World; and so he will, if he considers what he has done.

3. It hath been ordain'd in a ^m General Council, that Clerks, especially they in Holy Orders, who being suspended for their Incontinence, do yet presume to officiate, be not only deprived of their Ecclesiastical Benefices, but for ever ⁿ deposed

^m *Lateran*, *A. D.* 1216. *c.* 14. The Constitution of *Edmund* is almost the same with that of the *Latran* Council.

ⁿ *Depoñantur*, in the Editions of the *Lat.* Council aforesaid, and in Sir *H. S.*'s Copy; not *damñentur*, as in the *Oxford* Copy.

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fed for their double Crime, that a temporal Punishment may restrain them, whom the fear of God doth not restrain. Let Prelates, who countenance such in that Wickedness be liable to the same Punishment, especially if they do it for the sake of Money, or temporal Gain. Therefore it concerns you the Archdeacons, Officials and Deans to increase your diligence in proportion to the Danger which attends them that are guilty of Neglect.

4. Let Priests Concubines be monish'd by the Archdeacons, and especially by the Priests, within whose Parishes they dwell, that they either marry, or go into a Cloister, or make their Repentance as publick as their Crime. He who for the sake of Money, or Acquaintance neglects this wholsome Warning shall be subject to the Punishment now mention'd. If these [Women] can be brought to neither by Monition; after they have first been denied the Kiss of ° Peace, and the P Bread¹ blessed in the Church, let them, and such as communicate with them be excommunicated, in order to be deliver'd to secular Justice, unless they repent.

° Or rather of the *Pax*, that is a Table with the Crucifix painted on it. For the Apostolical Kiss of Peace was not now in use.

P Bread that has had a Prayer said over it, viz. that it may be for the health of Soul and Body to the Receiver.

5. A great necessity of following Peace lies on us, ¶ my Sons, since God himself is the Author, and lover of Peace, who came to reconcile not only heavenly, but earthly Beings; and eternal Peace cannot be obtain'd, without temporal and internal

¶ This seems to prove, that the present Constitutions, are only a Charge from the Archbishop to the Clergy
of

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of his own Dioceſe, or Conſtitutions publiſh'd, or made by him in a Dioceſan Synod. *L.* might place them among the Provincial Conſtitutions in honour to the prime See, and Dioceſe, tho' he knew them to be only Dioceſan Conſtitutions.

internal Peace. We admoniſh, and ſtrictly charge ^r you, that having Peace, as far as lies in you, with all Men, you exhort your Pariſhioners to be one Body in *Chriſt*, by the Unity of Faith, and by the Bond of Peace; that you compoſe all Differences that ariſe in your Pariſh, with all diligence, that you ſodder up Breaches, reclaim, as far as you can, the litigious, and not ſuffer the Sun to go down upon the Indignation of your Pariſhioners.

^r *The Rectors, Vicars, and other Curates of Churches, L.* This was excellent Advice to Priests, who had, or might have ſuch awe on the Conſciences of the People, as the Popiſh Clergy of this Age: But would be very unreaſonably applied to the preſent Engliſh Clergy who rather want Friends to perſuade the People to be at peace with them upon any Terms.

6. We wholly forbid Clergymen the ill practice, by which all that drink together are obliged to equal Draughts, and he carries away the credit, who hath made moſt drunk, and taken off the largeſt Cups: Therefore we forbid all forcing to drink: let him that is culpable be ſuſpended from Office, and Benefice, according to the ^r Statutes of the Council, unleſs upon admonition from his Superior, he make competent Satisfaction. We forbid the Publication of ^r *Scottales*, to be made by Priests. If any Priest, or Clerk do this, or be preſent at *Scottales*, let him be canonically puniſh'd.

7. Because

^r *Lateran*, 1216. c. 15.

^r *Scottales* ſeem to have been publick Computations at the charge of ſome, for the benefit of others.

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7. Because some Laymen, out of an heretical Leaven, under pretence of Catholic Piety endeavour to break a ^u Custom commendable in regard to the Church: now as we charge no wicked Exactions to be made on these occasions; so we charge the pious and laudable Customs to be observ'd, as it has been ordain'd in a ^x Council. Let not a Corps be deferr'd to be buried on account of the ^y Fee. But after the Burial, if any thing be given, let it be accepted as an Alms.

^u The Custom here meant is that of making Oblations at Weddings, Churchings, Baptisms, Burials. This is among the Constitutions of *Rich. Poore*, Bishop of *Sarum*, A. 1217. Sir *H. S.* p. 141.

^x *Lateran* 1216. c. 67. from which some Sentences here are clearly transcribed, as in many of the foregoing Constitutions.

^y The Fee is here called *Terragium* in Sir *H. S.*'s Copy, and in *Rich. Poor's* Constitution, p. 141. *Mutagium* in the *Oxford* Copy. *L.* passes by this Constitution.

8. Farther we forbid the selling of Masses, and ^z charge Laymen and others to give, or bequeath no thing in their Wills for ^a Annals, or Trentals of Masses: And we forbid any Bargains to be made by Priests, or other Transactors, directly or indirectly for this Purpose. And we prohibit under pain of Suspension, that Priests do at any time burden themselves with an immoderate number of Annals, which they are not able honestly to discharge, and therefore must hire at a certain Price mercenary Priests, or else sell them to be performed by others, for their own acquittal.

9. Let

^z The Constitution of *R. P.* says, let not Laymen be forced to give, or bequeath, p. 141.

^a Annals, or Annuals was a yearly Mass said for a certain dead Person upon the Anniversary Day of his Death. Trentals was thirty Masses said every Day for a Month together after the Death of any Person. *L.* observes

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serves that in some Copies it is *Triennialibus*; and so Sir H. S's Copy has it. This imports Masses said every Day for three Years together. If, says L. the Particle *for* do imply Exchange, Appreciation, or bartering one thing for another, then this Constitution proceeds rightly: But if it imply only the regard, and devotion which the Testator has to the Sacrament, then the Constitution will not hold. Archbishop *Edmund* was a Man of very scrupulous Notions, and I am of Opinion, that Bishop L. with all his Distinctions, and Evasions could not reconcile this Constitution to the old, and present practice of the *Romish* Clergy.

9. Let Baptismal Fonts be kept under Lock and Key for [fear of] ^b Sorcery, as also the ^c Chrism, and the Holy ^d Oil. If he, who has the charge of them be negligent in this Point, let him be suspended from his Office for three Months. And if any Wickedness have happen'd thro' his neglect, let him be liable to greater Punishment.

^b This was some vulgar Superstition, which says L. is better conceal'd, than explain'd.

^c For anointing Children in Baptism.

^d For Extreme Unction.

10. In every ^e Baptismal Church, let ther be a Baptistery of Stone, or however one that is ^f sufficient, handsomly cover'd, and reverently kept, and not used for any other Purposes. Let not the Water, in which a Child has been baptized, be kept in the Baptistery above seven Days. If a Child in case of necessity have been baptized by a Layman at home, let that Water, in honour to Baptism, be either thrown into the Fire, or carried to Church in order to be poured into the Baptistery;
and

^e That is all Churches, that have Lay-people belonging to them; as Collegiate, and Conventual Churches had not. Some Chapels, or lesser dependent Churches had not the right of Baptism.

^f Large enough for dipping such as are baptized in it, says L.

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and let the ^s Vessel, [in which Baptism was perform'd] be burnt, or deputed to the ^h use of the Church.

^s Here *L.* intimates, that the Vessel must be large enough to have the Child dipt in it. And that it ought to be thrice dipt, tho' he makes neither of these Particulars essential to Baptism.

^h For washing the Church Linen, says *L.*

11. Let the Priest always diligently inquire of the Layman, who has baptiz'd a Child in case of Necessity, what he said, and what he did: And if he find by full Evidence, that he did clearly perform Baptism in the form of the Church, let him approve the Fact, whether he did it in *Latin*, *French*, or *English*: But if not let him baptize the Child, as ought to be done according to the form of the Church.

12. We charge that ⁱ Deacons presume not to administer Penances, or Baptism, but when the Priest is not able, or not present, or stupidly unwilling, and Death is imminent to the Child, or sick Person. But if a Child be baptized by a Layman, let ^k what goes before the Immersion, and what ^l follows after be fully supply'd by the Priest.

ⁱ Not only Deacons, but Laymen might, not only baptize, but hear Confessions in case of Necessity, *Causa* 33. Q. 3. c. 85. *L.* says a Woman might do either: Tho' none but the Priest could absolve.

^k That is the *Exorcisms*, and *Catechisms*, says *L.* by the latter he means the Questions put to the Child baptized, viz. Dost thou renounce, &c.

^l That is the Chrism, the putting on the Chrysom, or white Garment, and the delivery of the Wax-candle, says *L.*

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13. Let the ^m Chryfoms be made use of, for the Ornaments of the Church only: Let the other Ornaments of the Church which have been ^a blest by the Bishop, be apply'd to no common use. And let the Archdeacon in his Visitation diligently inquire, whether this be observ'd.

^m See the foregoing Note, Chryfoms might be used for the making, or mending Surplices, Amits, Albs; or the wrapping up the Chalice, covering the Crosses, &c.

^a The Altar-clothes, &c. were to be blessed by the Bishop. See *de Consecr. Distinct.* 1. c. 46.

14. If it be certain that the Woman in Child-birth is dead, let her be ^o cut open in case the Child be thought to be alive; but let care be taken that the ^p Mouth of the Woman be held open.

^o If the Mother were not cut open there are two seeming ill Consequences, says *L.* one, that the Child would be murder'd; another that the Child, tho' unbaptized would be buried in the holy Ground with its Mother; and tho' Doctors differ, as to this last Point, yet *L.* allows if it be certain, that the Child is alive, that the Mother ought to be cut up.

^p For fear the Child die for want of Breath, says *L.* such was the Philosophy of this Age.

15. Let ^q Women be admonish'd to nurse Children with caution, and not lay them near themselves by Night, while they are young, lest they be overlaid; nor leave them alone in a House where there is Fire or Water, without one to look after

^q Mothers, and Fathers too had great reason to be careful in this Point: For they who had been the occasion of their Childrens death, were obliged to a very severe Penance: In some Cases they were obliged to go into a Monastery, in others to do Penance for three Years; and even seven Years, if any Sin, as for instance Drunkenness, were the occasion of their overlaying their Children.

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after them; and let them be reminded of this every Lord's-day^r.

^r Here follow in Sir *H. S's* Copy three Constitutions of Archbishop *Sudbury*, and a fourth the same with the twelfth of Archbishop *Hubert Walter*: This last is also in the *Oxford* Copy. *R. P.* Bishop of *Salisbury* has also the two following Const. p 145.

16. The Priest at Confession, is to have his Face and Eyes looking toward the Ground, not in the Countenance of the Penitent, especially if it be a^f Woman: And let him patiently hear whatever she says, and support her in the Spirit of Lenity, and persuade her by all ways and means to make a full Confession; otherwise the Confession is none at all. Let him enquire after usual Sins, but not after unusual, unless it be at a distance, and indirectly; that such as know may be put into a method of Confessing, and such as do not know, may not have an opportunity of learning to sin. Let not the Priest ask the Names of the Persons with whom the Penitent hath sinned: But after Confession, he may enquire whether he were a Clerk or a Layman, a Monk, Priest, or Deacon: And let the greater Crimes be reserved [to be confess'd] to:
^r Superiors; such are Murder, Sacrilege, Sins against Nature, Incest, Deflowring of Virgins and Nuns

^f The Woman, says *L.* shall kneel, or sit at the Confessor's Feet, and of one side of him.

^r By a Constitution attributed to Archbishop *Langton*, (but which seems to me of a later date) in the *Oxford* Copy, p. 10. Sins reserved to the hearing of Superiors are, Publick Usury, Burning of Houses, False-witness, Forswearing upon what is Holy to the Benefit, or Damage of others, Sorcery, forging of Seals, or Charters, coining false Money, obstructing of Testaments, committing Crimes for which Men are actually under the Sentence of the Canon, striking Clerks, Treason, Heresy, Simony, Subposition of Children to the disinheriting

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ting of others, overlaying of Children, procuring Abortion by Potions, or smothering a Child after it is born, suffering a Child by negligence to fall into the Fire, or Water, laying violent Hands on Parents, Sodomy, mortal Treachery against ones Lord, Sacrilege, notorious Adultery, and manifest breach of Faith. If a Man is excommunicated by any one that is not his Bishop, he should be sent to him, or desire Letters to him from his Superior, in order to procure Absolution.

Nuns. Laying violent Hands on Parents, and Clergymen. Breach of Vows, and the like. But ther are cases in which the ^u Pope alone, or his Legate has Power of absolving. Yet at the Hour of Death Absolution is to be denied to none; but upon a Condition, that they present themselves to the Apostolical Presence, if they recover; yet they who are guilty of such Crimes are always to be sent to the Bishop, or his Penitentiary. ^x And let the Persons thus sent bring with them Letters containing the quality and circumstances of the Sin; or let the Priest come with them, else let them not be admitted.

^u Cases reserved to the Pope, or his Legate, are, says L. laying violent Hands on Clergymen, or Monks in a cruel manner, burning of Churches, falsifying the Pope's Bull, or using a Bull so falsified, communicating with one excommunicated by the Pope, or partaking with him in his Crimes, &c. Of old the Priest's blessing a second Marriage was a Crime of the same Nature, but the Bishop dispens'd with this in L's time.

^x This is unnecessary says L. for the Bishop is Priest to the whole Diocese.

17. ^y Let ther be two or three Men in every Deanery, who have God before their Eyes, to denounce

^y This Constitution increases my Suspicion that the Archbishop intended all these Rules for his own Diocese only: If, as L. supposes, this Constitution related to the whole Province, certainly some notice would have

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have been taken of the Suffragan Bishops, and the Informers directed principally to denounce their Excesses to the Primate. All *L*'s difficulties on the Text of this Constitution vanish on Supposition, that it concerns the Diocese of *Canterbury* only.

nounce the publick Excesses of ^z Prelates or other Clergymen, at the Command of the Archbishop, or his ^a Official.

^z *R.* Bishop of *Sarum*, and *R.* Bishop of *Durham*, appointed such Inquisitors in their Dioceses almost in the same Words, *Spelm.* vol. 2. p. 145. 170.

^a The Archbishop's Official had the immediate Jurisdiction in the Diocese, as well as the Metropolitick Jurisdiction thro' the whole Province, till Archbishop *Winchelsey*, above sixty years after this created a Commissary for the Diocese of *Canterbury*.

18. We forbid any Man to detain ^a ^b Pledge, after he has received the Principal out of the Profits, after a deduction of Expences: For that is Usury.

^b The Pledge in this case must be supposed to be Lands, Cattle, She-slaves, or the like fruitful things.

19. ^c Let Sorcerers, such as invoke the help of Devils, such as abuse Sacraments, and Sacramentals, or convert them to profane Uses, Incendiaries, Rapparees, such as maliciously obstruct the Executions of reasonable Testaments be generally with Solemnity excommunicated on three of the greater Feasts every year.

^c The three following Constitutions are not in *L.* but are found in those of *R. P.* Bishop of *Sarum*, p. 146, and 148.

20. That Ecclesiastical Censure may not grow into Contempt, we charge, that all who knowingly communicate with such as are publicly, and by Name excommunicate be laid under the same

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Sentence, till they repent, saving the Tenor of the^d Canon.

^d That is *Causa* 11. *Quest.* 3. c. 103. all such are there excepted who converse with Excommunicates thro' ignorance, fear, or necessity.

21. We add, that when the Eucharist is to be carry'd to a sick Man, the Priest have a clean, decent Box, and in it a very clean Linen-cloth, in which to carry the Lord's Body to the sick Man, with a little Bell going before, to stir up the Devotion of the Faithful by its sound; and let the Priest go on this Occasion with his Stole, and in his Surplice, if the sick Man be not too far distant. And let him have a Silver, or Tin Vessel always to carry with him to the sick, appropriated for this special Purpose, that is for giving the Washings of his Fingers to be drunk [^e by the sick Man], after the taking of the Eucharist.

^e *Ægro* is not express'd in this Decree of Archbishop *Edmund*, but it is in that of Bishop *Poor*, from which it is transcrib'd, and is necessarily imply'd here. Horrible Indignity to God, and Man! to take the Sacramental Cup from the People, to which God had given them a right, and instead thereof to give them the Washings of the Priests Hands.

22. Our Will is, that this Constitution be inviolably observ'd; that if a Rector of a Church die, and leave [his ^f Church without proper priestly Vestments, or Books, or both, or] the Church Houses ruin'd, or decay'd, such a Portion be taken from

^f The words enclosed are only in the *Oxford* and Sir *H. S's* Copy. An Annotator to the *Oxford* Copy observes that Vestments were not in his time to be found by the Rectors, and he cites Archbishop *Winchelsey's* Constitution to this purpose. This was perhaps the reason, that *L.* omits the words aforesaid in this Constitution.

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from his & Ecclesiastical Goods, as may be sufficient to make good, and supply these defects of the Church. We ordain the same concerning those Vicars, who upon paying a moderate Pension have the whole Profits of the Church. For since they are bound to the aforesaid Reparations, such a Portion ought to be reckon'd amongst the Debts. But let a reasonable regard be had to the value of the Church, in setting out this Portion.

^g *L.* here queries whether such defects are to be made good out of the paternal Estate of the Predecessor, in case his Ecclesiastical Goods are not sufficient: And answers, Yes, if he hath improved his paternal Estate out of his Ecclesiastical Revenue, or hath neglected the Concerns of the Church thro' an immoderate regard to his own Interest. Upon this foot the Predecessor leaving a paternal Estate only is not subject to Dilapidations.

23. Let no Rector of a Church subject to us ^h presume to sell the Tithes of his Church not yet become due, before the Annunciation of the Blessed Virgin; from which day the Fruits of Custom ought to go for the paying of the Debts, and Legacies of the Rectors, tho' they die, before the Fruits become due.

^h But what if the dying Rector do presume to sell the Fruits of the following Autumn, says *L.* is the Sale good? He inclines, that it is not good, as being contrary to this Constitution: But he refers to several Doctors that were against him. This is likewise taken from the Constitution of *R. P.* p. 149. 150. Ther was a like Constitution made by *Richard* Bishop of *Durham* some time before this. See *Sir H. S.* vol. 2. p. 125. But by a Constitution of *Peter Quevil*, Bishop of *Excester*, *A. D.* 1287. If the Incumbent lived to the first Sunday in *Lent*, he might give the Tithes of next Harvest, *ibid.* p. 389. In the Diocese of *Winchester*, it was necessary that the Rector lived till *Maundy Thursday*, *ibid.* p. 451, 452.

24. As

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24. As it has been forbidden in a ⁱ Council, so we forbid any Pension, great or small to be given to any one fraudulently out of the Profits of a Church. And because Fraud and Simony used to be committed in relation to such Pensions, therefore we to obviate such Evils do sometimes take an Oath both of the presenter and the presented, that no unlawful Promise or Bargain hath been made.

ⁱ The *Lateran* Council is cited for this saying in a *Decretal* of *Innocent* the Third, *Decretalium* l. 3. t. 10. c. 9. The Editors in the Margin say the 7th Chapter of the *Lat.* Council 1179. under *Alexander* the Third is here meant, yet that does not fully come up to the Point.

25. We admonish Rectors of Churches, that they do not endeavour to remove annual Chaplains without reasonable Cause, especially if they are of honest Life, and have a laudable Testimony of their Conversation.

26. If Scandal arise by reason of the Incontinence of a Parish Priest, since the Rector ought to be very watchful in this Point; if therefore we come to the knowledge of it by common Fame, or Enquiry, earlier than by the Denunciation of the Rector, then he shall be punish'd, as conscious, at the discretion of his Superior. We pass the same Sentence as to perpetual Vicars: And we decree both Parsons, that is Rectors and Vicars, and also Parish Priests to be severely punish'd, unless they be very vigilant in denouncing the Excesses, of this sort especially, for which Clerks are found remarkable.

27. Let the Priest often caution the People, and forbid under pain of *Anathema* any married Person to enter into Religion, or to be received, but by our selves, or our License.

28. Let

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28. Let the Priest warn Women not to make Vows, but with great deliberation, or the consent of their Husbands, and the advice of a Priest who is capable of giving them Counsel.

29. We charge that Laymen be often forbid to make their Wills without the presence of a Parish Priest, as they desire, that their Wills be fulfilled: We also forbid Priests to make their Wills by a Lay hand.

30. That is no Marriage where ther is not consent of both Parties, therfore they who give Girls to Boys in their Cradles do nothing, except both of them consent after they come to Years of Discretion. We therfore by this Decree forbid any to be married for the future, before both are come to the ^k Age appointed by Laws and Canons, unless in case of ^l urgent necessity for the good of Peace ^m.

^k The Age for Espousals is seven in both Sexes, for finishing the Contract twelve in the Female Sex, and fourteen in the Male.

^l Who is Judge of this Necessity? The Diocesan, without whose Licence they ought not to make Contracts, or dissolve them.

^m Here follows in Sir H. S's Copy Archbishop *Wesbersbed's* Constitution concerning Physicians.

31. ⁿ Because too great diversity of Religions brings confusion into the Church of God, we charge that they who will found a new [Religious]

ⁿ The beginning of this Constitution is taken from *Lateran* Council 1216. c. 13. where the Pope reserves to himself the Institution of new Religions, that is new Orders of Monks, Friars, and Recluses of all sorts; the Archbishop in this claims the Inspection of Religious Houses to be built anew, that they might be *ex approbatis*, as the Canonists speak, that is, that their Rule of Life might be one of those that was already approved by the Pope. And Hospitals were always under the Inspection of the Bishop.

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ous] House, or Hospital take from ° us the Rule and Institution of it; that they [who are to be receiv'd into it] may live regularly and religiously; P and we strictly forbid any Men or Women to be made close Recluses any where, without special Licence of the Diocesan, who is to judge of the Places, the Manners, the Quality of the Persons, and the Means, by which they are to be maintain'd. And let no secular Persons by any means sojourn in their Houses, without a manifest and honest Cause.

° From the Ordinary of the Place, says *L.* but I follow the two other Copies. *L.* seems to alter his Text, upon a Supposition that this was a Constitution for the whole Province; whereas it was more probably intended for his Diocese only.

P What follows is in *L.* only. By the close Recluses *L.* understands Hermits, and Anchorites; but sure there never were any Women of this sort; and the following Words suppose them to dwell in Monasteries: And farther *L.* says, some read *fociis* for *locis*, and therefore could not understand Hermits to be here meant.

32. At the celebration of Mass, let not the Priest, when he is 9 going to give himself the Host, first kiss it; because he ought not to touch it with his Mouth before he receives it. But if (as

9 *Pacem daturus*, says *L.* and he speaks in such a manner, as if the holy Kiss were used in these Ages, and that the Priest began it by kissing some Man: The time of doing this was just before the Priest's receiving, whether the Kiss were given to a Man, or to a Picture, therefore *L.*'s reading, and that of the other differ in Words only. Why it was forbid the Priest to kiss the Host before he gave the *Pax*, I know not, except it were, that it was a new voluntary Ceremony; if so it were to be wish'd that all Bishops from the beginning had been as careful to forbid them, as our Archbishop was. Perhaps the Priest was forbid to kiss the Host, least some small Particles should stick to his Lips, and afterwards insensibly drop on the Ground.

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(as some do) he takes it off from the ^r Patten, let him after Mass cause both the Chalice and Patten to be rinsed in Water; or else only the Chalice, if he did not take it from the Patten. Let the Priest have near to the Altar a very clean Cloth, cleanly and decently cover'd, and every way inclosed to wipe his Fingers, and Lips after receiving the Sacrament of the Altar.

^r Without taking it up in his Fingers, and so putting the Patten to his Mouth as most of the Religious do, says *L.*

33. Let the Priests admonish Women that are big of Child in their Parish, that when they apprehend the time of their Delivery to be at hand, they take care to have Water in a readiness for baptizing the Child, if necessity require. And let them confess to the Priest on account of their imminent Peril, lest being seized on a sudden a Priest be not to be had when they desire it. [^r And in some places they also receive the Eucharist, which is a laudable Practice.]

^r This is only in the *Oxford* Copy, and seems to be an Annotation.

34. It is provided by the sacred Council, that if Patrons, Advocates, ^r Feudataries or ^u Vidoms presume

^r Such as hold Lands in Fee of the Church, says *L.* otherwise I should have supposed that it signified such Laymen as had Churches and Tithes granted them in Fee, on Condition that they found a Priest to officiate.

^u *L.* supposes these to be the same with Patrons: else I should have been of Opinion, that they were the Heirs of such as founded Religious Houses, and claimed a Right or Interest over their Estates, and the Churches belonging to them, or the Proxies of such Heirs. But the truth is, this whole Constitution is but part of *c. 45.* of the *Lateran* Council 1216. And we are not to wonder, if these foreign Terms are not exactly adapted to the *English* Laws and Customs.

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mony, and were ordain'd without a ^d sufficient Dispensation, as also those who were ordained by such as were not their proper Bishops, without the Licence of those that were their proper Bishops, or ^e Prelates, till they have obtained such Dispensation. And we decree, that they who when they were ordain'd were conscious to themselves of their being in mortal Sin formerly committed, or who took Orders only for temporal Gain do not exercise their Office, unless they are first cleansed from this sort of Sin by the Sacrament of Penance.

^d The Pope only says *L.* can dispense as to the Superior Orders, the Bishop as to the Inferior : And the Pope's, or Bishop's knowingly ordaining such a Person was a sufficient Dispensation in *L.*'s Opinion, tho' other Doctors were of another Sentiment.

^e This is said in relation to Religious Houses, exempt from the Bishops Jurisdiction, whose Prelates could give them Letters to go to what Bishop they pleased for Ordination.

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P R E F A C E. *Legatin Constitutions of Otto.*

KING Henry the Third being none of the most sagacious or constant Princes, invited Otho, or Otto, Deacon Cardinal to come over into England, as Legate à Latere from Pope Gregory the Ninth, without the consent of the great Men, and to the great Resentment of Edmund Archbishop of Canterbury, and to the Grief and Concern of the main Body of the English Nation. Yet many went as far as Paris with rich Presents to meet, and ingratiate with him.

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Otho's Behaviour was very engaging, especially because he did not seem so greedy of Money, and Bribes as Roman Courtiers generally were; and he reconcil'd some Animosities between Persons of great Honour and Dignity: The King doted on, and even ador'd him: He met him at the Sea side, and bow'd his Head down to the Legate's Knees, declaring, that he would do nothing in point of Government without consent of the Pope or Legate.

The Clergy stomach'd the coming of this Legate more than the rest of their Countrymen; especially because he took upon him to bestow all vacant Benefices and Dignities on his own Followers, and threatened the Pluralists, and such as were Illegitimate with Deprivation.

The King carries the Legate with him to York, whither he called an Assembly of the great Men to meet him and the Legate: The King of Scots also came thither, and by Otto's means a Peace was concluded betwixt the two Crowns. The Legate shewed an inclination to accompany the King of Scots in his return home. But King Alexander was of a contrary Temper to our Henry, and told him, "That
"ther was, God be thanked, no occasion for a Le-
"gate in Scotland, that ther had been none there
"in time of his Ancestors, nor would he himself en-
"dure it: Have a care, says he, how you come in-
"to my Country, the Inhabitants of Scotland are
"Savages; nor can I my self restrain their thirst
"after Blood, they lately intended to drive me out of
"my Kingdom." Yet a Kinsman of the Legate's staid
some time with the King of Scots, and received some
Favours from him.

Some of our Noblemen, as well as Bishops fawn'd much upon the Legate. Peter, Bishop of Winchester, when he understood that Otto was to pass the Winter in England, sent him fifty fat Oxen, a hundred Quarters of the best Wheat, and eight Pipes of

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the ſtrongest Wine: The Cardinal had made up a Breach between him, and ſome Men of note.

But what I am chiefly to obſerve is, that the Legate ſummoned the Archbishops and Biſhops to a National Council to be holden at London on the Octaves of St. Martin: They come at the time appointed tir'd with a long Journey, terrified with a Tempeſt which then happen'd. On the firſt day the Legate did not appear in Council; but at the Biſhops requeſt the Decrees intended to be paſs'd were privately communicated to them. The next day the Legate appear'd with great Pomp, ſitting on a lofty Throne erected with great Timbers at his own Direction, the Archbiſhop of Canterbury on his right Hand, of York on his left: For tho' the latter renew'd the old Claims of his See, yet to no purpoſe, tho' the Legate rather evaded than determin'd the Queſtion. There were at the Cardinal's requeſt two hundred arm'd Soldiers and Servants placed privately by the King's Command, to guard the Legate againſt Inſults, and three Earls, and ſome of the Kings Retinue attended him to and from the Council: Yet a Prohibition was ſent from the King on the ſecond day to inhibit the Council from enaſſing any thing againſt the King's Crown and Dignity: The ſame day the Archdeacon of Canterbury read the authentic Inſtrument of Otto's Legation publickly in Council; and at the King's requeſt a Bull was then alſo read for keeping the Feaſts of St. Edward, and by the Pope's Command, the Canonization of St. Francis, and St. Dominic was there alſo notified.

And whereas a Notion prevailed, that Legatine Conſtitutions were of Force only during the ſtay of the Legate, the Secretary of Otto read a Decretal of the preſent Pope declaring the contrary. See Decretal. L. 1. T. 30. c. 10.

*The Legate open'd the Synod by liſting up his Voice, like a Trumpet, ſay the Hiſtorians, with the Words,
of*

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of the Prophet Ezekiel, In the middle of the Throne, and round about were four Animals full of Eyes behind and before, *which he consider'd as an Emblem of Episcopal Care, and Circumspection; and after he had finished his Discourse, he caused the following Decrees to be read.*

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Legatin Constitutions of Otto,†

Sir H. S. vol. 2. p. 221.

A Council of all *England* holden at *London* in the Church of *St. Paul* on the Morrow after the *Ostaves* of *St. Martin*, A. D. 1237, in the twenty first Year of the Reign of *Henry the Third*, † *Otto* Legate Cardinal of *St. Nicolas in Carcere Tulliano*, Legate of Pope *Gregory the Ninth*, the Archbishop's *Edmund of Canterbury*, and *Walter of York*, sitting with him, as also the other Bishops of *England*, &c.

† It was I suppose this same *Otto*, who came Legate twelve Years before, when his business was to obtain for the Pope two Prebends in every Cathedral, two Places for Monks in every Monastery. But the whole Realm assembled in Parliament rejected this unreasonable demand.

Because Holiness becomes the House of God, and it is said by the Lord to his Ministers, *Be ye holy, for I the Lord your God am holy*, the Craft of the Enemy of Mankind is busy to lessen and destroy Sanctity and Reformation: For he does both, while he hinders or retards the Consecration of Churches in many places, and while he viciates and corrupts the Life and Conversation of many Ministers, by setting them against all the

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Canons and Statutes of the Holy Fathers, and in general against all the Improvements of Christianity with all his might, so that they do not with dignity perform their Function: Therefore all *Christ's* faithful People must resist him in Faith with a strong hand; and must use recruited and new Forces for the defeating of his Attempts: So *Isaac* first took care to open again the Wells which *Abraham's* Servants had dug, and then to dig others entirely new.

Wherefore we *Otto* by divine Miseration, Deacon Cardinal, &c. being deputed by the Apostolical See to the \S Legatine Office in *England*, supported by the divine Help, and by the suffrage, and consent of the present Council, esteemed some things fit to be ordain'd in Virtue of the Office committed to us, which we have digested and distinguish'd into certain Articles here below, for the corroborating and reforming the State Ecclesiastical,

\S Legates were of three sorts, 1. Ther was the *Legatus Natus*, such were the Archbishop of *Canterbury*, *Rheimes*, &c. this seems to me to have been a mere empty Title: For I know no one thing, which our Primates before the Pope gave them this Feather, did not upon occasion think themselves enabled to, as well as after. *Theodore* and *Lanfranc* exercised as great an Authority over the Archbishop of *York*, as any of their Successors, that call'd themselves *Legati Nati*. 2. Ther were *Legati à Latere*, such was *Otto*. Such Legates could absolve them that were excommunicate for laying violent Hands on Clerks, call Synods, grant Absolutions and Dispensations in Cases reserved to the Pope, and every thing that the Pope, if present could do, excepting Translation of Bishops, erecting Archbishopricks, dividing or uniting Bishopricks; and tho' they might fill any vacant Dignities, or Benefices, and hear any Appeals, yet such were excepted, as the Pope before had committed to special Legates, and these special Legates were the third sort. See *Decretal L. 1 Tit. 30. per tot.*

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fiastical, saving other Canonical Institutes which we will and command reverently to be observ'd.

1. The Dedication of^h Royal Temples is known to have taken its beginning from the Old Testament, and was observed by the Holy Fathers in theⁱ New Testament, under which it ought to be done with the greater care and dignity, because under the former Sacrifices of dead Animals only were offer'd, but under the latter the heavenly, lively and true Sacrifice, that is *Cbrist*, the only begotten Son of God, is offer'd on the Altar for us by the Hands of the Priest: Therefore the Holy Fathers providently have ordain'd that so sublime an Office should not be celebrated in any place, but what is dedicated, except in case of necessity. Now because we have our selves seen, and heard by many, that so wholsome a Mystery is despised, at least neglected by some (for we have found many Churches and some Cathedrals not consecrated with Holy Oil, tho' built of old) we therefore being desirous to obviate so great a neglect do ordain, and give in charge, that all Cathedral, Conventual, and Parochial Churches, which are ready built, and their Walls perfected be consecrated by the Diocesan Bishops, to whom they belong, or others authorized by them within two

^h *John Athone*, not the present Legate's Secretary, but he who wrote Glosses on those Constitutions of *Otto*, and those of *Ostobon*, whom I shall in my Notes on these Constitutions always signify by the Letters *J. A.* and who appears to have written in the fourteenth Century, as has been shew'd in the first part of the *Vade Mecum*, pag. 162; this *J. A.* well observes that Royal Structures are not properly call'd Churches, till they have been dedicated, tho' the Legate, who here gives them only the Title of *Basilica*, in the sequel calls them *Ecclesie*.

ⁱ *J. A.* learnedly proves this by referring us to several places in the Decree, and Decretals.

K 3

Years :

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Years: And let it so be done within a like time in all Churches hereafter to be built: And lest so wholsome a Statute grow into Contempt, 'if such like Places be not dedicated within two Years from the time of their being finish'd, we decree them to remain ^k Interdicted from the Solemnization of Masses, until they be consecrated, unless they be excused for some reasonable Cause. Farther by the present Statute we strictly forbid Abbots and Rectors of Churches to pull down ancient consecrated Churches, without the consent and licence of the Bishop of the Diocese, under pretence of raising a more ample and fair Fabrick. Let the Diocesan consider, whether it be more expedient to grant, or deny a Licence: If he grant it, let him take care that the Work be finish'd as soon as may be: Which we ordain also in relation to such as are already begun. We think not fit to ordain any thing concerning little Chapels leaving the time and manner of their Consecrations to the Canonical Definitions.

^k Interdict, says *J. A.* is a Punishment, whereby divine Offices are forbidden to be performed by interdicted Persons, or in interdicted Places. Yet he supposes, that only solemn, or high Mass, not the modest Celebration of the Mass it self is forbidden by an Interdict, but this must be understood as to interdicted Places only. For the Priest under Interdict incurr'd an Irregularity by celebrating in any manner, and could be absolv'd by the Pope only.

2. We ordain and charge that the Sacraments of the Church, in which as in heavenly Vessels the means of Salvation are contain'd, as also the consecrated Oil and Chrism be purely and devoutly administer'd by the Ministers of the Church without any spice of Covetousness under pretence of a Custom, by which, say they, they who receive these Sacraments make certain payments to certain

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certain Persons. For the sake of the simple, we have thought fit to ordain, which, and how many principal Sacraments ther are. They are Baptism, Confirmation, Penance, the Eucharist, Extreme Unction, Matrimony and Orders. Concerning every one of these the sacred Canons treat largely and fully. But because it is not easy to turn over the Volumes of the Canons, and it is intolerable for a Physician not to know Medicine, we ordain, that upon the undertaking the cure of Souls; and the Order of Priesthood such as are to be ordain'd be examin'd chiefly upon these Points. And let Archdeacons at every Meeting of their Deaneries instruct the Priests principally in those Matters teaching them how to govern themselves in relation to Baptism, Penance, the ¹ Eucharist, and Matrimony.

¹ Eucharist is omitted in J. A's Copy, Extrean Unction both by J. A's and Sir H. S's; but the former supplies them in his Notes.

3. The two Sabbath-days, viz. before the Resurrection of the Lord, and Pentecost; are by the Holy Canons appointed for the solemn Celebration of Baptism, ^m on a mysterious account; yet some in these Parts as we have heard, being imposed upon by a Diabolical Fraud, ⁿ suspect Danger

^m J. A's Copy says *propter ministerium*, but Sir H. S's, more justly *propter mysterium*. J. A's Gloss refers to *de Consecr. distinct. 4. propriè*, where it is said, that *Easter-Eve* is a time for Baptism, because the *Form of the Mystery* is the Death and Resurrection of *Christ*, adumbrated by the Immersion of the baptized Person, and his being lifted out of the Waters; and that *Pentecost* is a second *Easter*; therefore I doubt not but J. A. read *mysterium*, tho' his Transcribers have varied it.

ⁿ The grounds of this Fancy I no where find. J. A. supposes the fear of Death before that time was the ground

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ground of it; but the Constitution supposes the danger to proceed from being baptized *these Days*, viz. on the Eve of *Easter*, or *Pentecost*.

ger, if Children be baptized on these Days, the Thoughts, or least Fears of this are inconsistent with the Merits of Faith; and it is demonstrated to be false, because the chief Pontif does personally solemnize this Ministry on the days before named; and the Churches in other Parts of the World observe the same: Therefore we charge, that the People be warned against this great Error by frequent preaching, and be brought to solemnize Baptism on those Days, and to have their Children baptized. We farther ordain, that ° Parish Priests diligently learn the Form of Baptism, and frequently explain it in the vulgar Tongue on the *Lord's-days* to their Parishioners; that if a case of Necessity happens so that it concerns them to baptize any one, they may know how to observe it; and let enquiry be afterward made, whether it were observ'd.

° That is properly according to the use of the Kingdom, says *J. A.* such as baptize in the stead of the Rector, or Vicar; tho' in Law, says he, it may signify the Rectors, or Vicars themselves: He means the Popes Canon Law.

4. We have heard what is horrible to be heard, and said, that some wretched Priests who receive what arises from the Altar, and from Penance (as belonging to the Vicarial Benefice & let to Farm) or for other filthy Lucre's sake, admit none to Penance, unless some Money be first deposited ¶, and deal with the other Sacraments in the same manner.

¶ *Vel ad firmam*, Sir *H. S. J. A.* here says that the *Altaragium* consists of Oblations in Bread, Money, or other little things

¶ Some here add *in sinu*, *J. A.* in *signum avaritie*.

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ner. Now because they who do such things are unworthy of the Kingdom of God, and an Ecclesiastical Benefice; we strictly charge and ordain, that after an exact enquiry made by the Bishops, he who is discover'd to have committed any thing of this sort be wholly removed from the Benefice which he has, and be ^r perpetually suspended from the Office, which he has badly executed.

^r This Suspension implies Deprivation, says *J. A.* tho' it had not been mention'd before.

5. We approve what has been ordained in a certain ^f Council, and do ordain, that in every Deanery prudent and faithful Men be appointed Confessors by the Bishop, to whom Parsons, and lesser Clergymen may make their Confessions, who are ashamed and afraid to do it to the ^t Deans. And we charge that general Confessors be appointed in Cathedral Churches.

^f By c. 10. of the *Later.* Council, 1216. Bishops are obliged to have Assistants in preaching, hearing Confessions, and injoining Penances; this is the same as to its meaning with what *Otto* here requires, as *J. A.* observes.

^t The Deans still remain'd the proper Confessors: The others were only for the more shy and timorous Clergymen.

6. The sacred Order is therefore to be conferr'd upon worthy Men, and in a worthy manner, because other Sacraments are conferr'd by him that is ordain'd. Therefore since it is very perilous to ordain Idlers, Illegitimates, Irregulars, Illiterates, Foreigners, and any that want a true and certain Title; therefore we enact, that a diligent Enquiry be made by the Bishop before Ordination concerning all these Particulars. And lest ^u after such
as

^u Here I follow Sir *H. S.*'s Copy.

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as have deserv'd it and are set aside upon Examination, should clancularly creep in among them that are approved, let the number and names of the approved be written down, and let such as are written down be afterwards at the beginning of the Ordination called over by reading the List with a * careful distinction. And let the List it self be preserved in the Bishop's House, or the Cathedral Church.

* And here also. *J. A's* Copy has *solita* instead of *solicitâ* by an evident mistake. Here we may see the great Carelessness which then prevailed in ordaining Clergymen, and this shews the meaning of Clergymens being ordain'd by stealth in the first Constitution of *Edmund*. Probably this was the first Essay towards Bishops keeping Registries of their Ordinations.

7. We will by no means by our Authority support the farming of Churches, or the general placing of Farmers in them: Yet we are afraid to put forth Edicts of Prohibition by reason of the Infirmary of very many; which might make us seem rather to lay Snares than to find out Remedies. But we are bound to obviate some Evils arising from this Cause which have come to our knowledge. For it very often happens that Farmers, as they are called, while they desire to get more than they pay, commit sordid Exactions, which are sometimes Simoniacal. We forbid, that Dignities, or Offices, as Deaneries, or Archdeaconries, or the Profits arising from the Exercise of Ecclesiastical or Spiritual Jurisdiction; or from ² Penance,
or

³ Here I follow Sir *H. S's* Copy, as evidently more genuine and clear.

² Yet says *J. A.* the Incumbent may constitute another Priest to be his Proxy, and when he is so constituted may assign these Profits to him instead of a Salary.

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or the Altar, or from any Sacraments whatsoever be henceforth in any wise ^a granted to farm.

^a The foregoing Particulars, says *J. A.* may not be let to farm by name or by themselves; but they may well pass in general Terms as *I let to farm my Church, or Prebend, with all and singular the Profits, &c.*

8. Whereas it is very unbecoming to farm Churches to Laymen, and to Clergymen, whatever they are, for a long time, as being dangerous and bringing damage to the Church, now we strictly forbid both, and charge that Churches be not at all farmed to Laymen for the future, nor to Ecclesiastical Persons for above five Years, nor farmed again after the end of that Term by the same Men, without others coming between. And that all be safe, we charge, that the Agreement be made in the Presence of the Bishop, or Archdeacon, and several Instruments thereupon written, one whereof to remain with them.

9. We have heard it some where happen'd, that in the vacancy of a fat Church, which a certain Man desir'd to have, but durst not accept as Parson, lest he should in Law be deprived of other Benefices which he had, he cunningly procured that Church to be granted to him in perpetual Farm, on Condition that he should make a small payment to another, who was made Parson in Name only, and retain all the rest to himself. Upon which occasion we ordain by this Edict, that no Church, Prebend, or Ecclesiastical Revenue be granted to any one in whole, or in part to perpetual Farm, under any Pretence whatsoever; decreeing any Attempt of this sort to be null and void.

10. We ordain, that no Man for the future be admitted to a Vicarage, but such an one as is already ordained Priest, or at least such a Deacon as
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may be duly ordained [Priest] the ^b next *Ember-week*, who renouncing other Benefices, with cure of Souls, if he have any, may swear to keep corporeal Residence thereon and may always keep it : Otherwise we decree the Vicarage to be void, and to be given to another. And thus let that Fraud be evaded, by which a small Portion was assigned to one under the name of a Parsonage, and the Church given under the pretended name of a ^c Vicarage to another Man, who was afraid of losing other Benefices, if he had accepted it as Parson. As to Vicars already instituted, who are not Priests, (since Vicars are bound personally to serve their Churches) we charge, that within the Year they cause themselves to be ordained Priests. And if they themselves are the occasion of their not being ordained, we decree that from thenceforth they be deprived of their Vicarages: And as to their Residence we make the same Ordinance, as we did above in relation to them that are hereafter to be instituted.

^b Any Clerk might be instituted to a Rectory, says *J. A.* and I may add, that any Clerk might be instituted to a Vicarage before this Constitution was made.

^c From this it is evident, that Vicarages before this were esteem'd compatible Benefices, but Rectories were not : This I suppose was grounded upon c. 13. of the *Lateran* Council 1179, and the 29th Chapter of the other *Lateran* Council, 1216. in both which a Plurality of *Churches* is forbidden, but not of Vicarages ; and a *Church* in such Cases always denotes a Parsonage. And it is evident from this Constitution that the Clergy of *England* were apprehensive of the Provisions against Pluralities made in the late *Lateran* Councils ; otherwise ther had been no occasion of fearing to take a Benefice under the name of Parsonage to avoid the Penalty of losing the Benefice, or Benefices already obtained : Yet it is certain in Fact, that many Pluralities were still holden, and without any Papal Dispensation.

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11. Every lover of Justice should labour with a sagacious Zeal to escape the Frauds of ill Men, lest if Rectors grow sleepy, Simplicity and Truth be supplanted by Craft and Falſity. We are inform'd by many, that ſome Priests coveting a Benefice which belongs to an abſent Man, contrive Reports of his being dead, or of his having reſign'd his Benefice, and by one means or other thruſt themſelves into it: And if the dead Man revive and return to his Church, the answer is given him, I know you not, and the Gate is ſhut againſt him. Some are not afraid to invade the Benefice of one that reſides on the ſpot by clancularly breaking in upon him: And [judicial] Sentences cannot turn them out of Doors, they defending themſelves by Arms: Therefore uſing ſuch Remedies as we can in both Caſes, we ordain and forbid a Benefice that belongs to one to be at all conferr'd on another, upon pretence of an Apprehenſion or report of the Death, or Ceſſion of an abſent Man: But let the Prelate ſtay till he be fully informed in either Caſe; or elſe we decree, that he be bound to make good all the Damage done to the abſent Man by this means; and that he who was thruſt in be forthwith ^d *ipſo facto* ſuſpended from Office and Benefice, beſide the reſtitution of Damages. And our Will is, that this be extended to him who ſeizes an Eccleſiaſtical Benefice by his own Authority, or Raſhneſs, by Force, or clancularly while another is in Poſſeſſion of it, and endeavours by Arms to defend himſelf in it after it has been declared to belong to another.

^d This is the firſt *ipſo facto* Sentence, which I obſerve in our *Engliſh* Conſtitutions, and in this Caſe all Law and common Senſe will determine, that it is juſt and reaſonable: For Fraud, or Force can give no right.

12. Whereas

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12. Whereas the conduct of Souls, as Bishop Gregory testifies, is the Art of Arts, the old Sophister is not wanting to use all the windings and turnings of Deceit, and to study the fallacies of Pretence, in order to^e catch the Learners of this Art, and to exclude those from Salvation who are unskilful and incautious, that is he makes them transgress the Commandments of God, and go contrary to the Rules of holy Men, and neither the Word of God, nor Canonical Sanctions can reduce Sinners from the crooked Road. For our Catholic Art requires that ther be but one Priest in one Church, that is a Master perfect in Order, Habit, holy Life, Knowledge and Doctrine, and that the^f Ordination or the Church be pure and simple, but the opposition of the Devil causes many to deviate in this Point, whilst sometimes at his Suggestion, under pretence of several Patrons, a Church is given not to one but divers, so that there is a Monster, several Heads in one Body. And sometimes the Parson, whatever the occasion is, consents that some Portion be granted to another in the name of a Parsonage. Farther, a Church often remains desolate without a Master, while there is neither Parson nor perpetual Vicar in it, but perhaps some simple Priest, who has no right, nor pretence of right to it. And perhaps, if a Parson do reside there, yet he is not perfect in^g Order, as not being a Priest, nor in Habit, as appearing to be a Soldier rather than a Clerk. He has alas too little care of Life, Knowledge, or Doctrine.

^e *J. A.*'s Latin is *concludere Discipulos*, not *Disciplinam*, as Sir *H. S.* yet with him I read *pratentionis*, not *pasionis* as *J. A.* in the foregoing words.

^f That is the vacating, and filling of the Church. See below in this same Constitution.

^g Here I follow Sir *H. S.* At this Day, says *J. A.* any Clerk may be promoted to a Rectory: Yet the Decree
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of Pope *Boniface* the Eighth says he must be Sub-deacon, but may remain Rector in that Order seven Years. See *Sext. Decret. L. 1. T. 6. c. 34.* Yet even by this he might be Rector a Year before he was Subdeacon. This was *A. D. 1299.*

Doctrine. The Ordination of the Church is seldom performed in a simple manner as it ought to be without some diabolical Contrivance. For sometimes, we hear, a Church is given to a Man on this tacit, or express Condition, that the Institutor, or Presenter, or some other may receive some Portion out of it, and he would perhaps have the whole, if on account of the severity of the Law, or the fear of losing other Benefices he had not ^h divided it. Sometimes a Man makes a Cession of his Parsonage, and accepts a Vicarage from one Institution in the same Church, which is presum'd not to be done without Simony. Now we reprobating these Divisions, and particular Assignments, as contrary to our Catholic Art strictly forbid them to be practis'd for the future; ordaining that no one Church be for the future divided into several Parsonages, or Vicarages; and that such as have hitherto been divided be made whole again as soon as opportunity offers it self, unless they were thus order'd of old. In which case the Bishop of the Place must take care that a proper Division be made of the ⁱ Income, and of the Quarters of the Parish: As also that one be constantly resident upon the Church, and faithfully and honestly perform divine Service, and administer the Sacraments, and be solicitous for the cure of Souls.

^h *Divisisset, J. A. Dimisisset, Sir H. S.*

ⁱ Here both Copies are very dark.

13. ^k As to the Residence of Rectors on their Churches,

^k *J. A.* make this a part of the former Constitution.

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Churches, we think ther is greater need of executing than of enacting. For the ¹ Councils of the *Roman* Pontifs are extant, which are clearer than the Light in speaking ^m on this Subject. And an Execution of what has been already done is more requisite, than a Publication of [new] Sanctions. We say the same of those who hold several Dignities, Parsonages, or Benefices with cure of Souls, without a special Dispensation from the Apostolical See, contrary to the ⁿ Constitution of the General Council, to the expence of their own Salvation.

14. Because

¹ See *Decretal. L. 3. Tit. 4. per tot.* These were collected by *Gregory* the Ninth, who sent this Legate.

^m Yet *J. A.* declares that any immediate Ordinary inferior to the Bishop could dispense with Non-residence: But it was only in a reasonable Cause, in which Case, I conceive, no formal Dispensation was necessary: Which our Glossator in effect allows. The Bishop only could dispense with young Rectors for their seven Years absence for study.

ⁿ C. 13. of *Lateran* Council, 1179. c. 29. of *Lateran* Council, 1216. These Canons our Judges since the Reformation have declared to be as binding as an Act of Parliament. Yet the Bishops and Clergy of this Age had no such Thoughts of them. *Otto* had drawn a Constitution, which he intended to have passed in this Synod in order to inforce the two *Lateran* Decrees against Pluralities; but when that Constitution was publicly read in Council, *Walter de Cantelup*, Bishop of *Worcester*, laid off his Mitre, and thus spake to the Legate, " Holy Father, since many Noblemen, that have
" such Blood as mine running in their Veins hold Plu-
" ralities without Dispensation; some of which are old,
" and have liv'd magnificently, it would be too hard
" to reduce them to a disgraceful Poverty by Depriva-
" tion. Some of them are young and bold, and would
" run the last Risque rather than be confin'd to one
" Benefice. I know this by my self, for before I was
" advanced to this Dignity, I resolv'd with my self,
" that if by Virtue of such a Constitution I must lose
" one

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“ one Benefice, I would lose all: 'Tis to be fear'd ther
“ are many of this Mind; therefore we beseech your Pa-
“ ternity to consult our Lord the Pope in this Point.”
It is probable this Speech was the occasion of dropping
that Constitution, and leaving these few Lines in the
stead of it.

14. Because Laymen take great Scandal at the
unclerical Habit of Clergymen, which makes them
look like Soldiers, therefore we charge and ordain,
that they be compell'd by the Bishops to that
form of Apparel for themselves, and of Trappings
for their Horses, that was injoin'd in the General
• Council, so that they have Garments of a de-
cent length, and that they in Holy Orders use
close Copes, especially in the Church, and before
their Prelates, and in Assemblies of Clergymen,
and such as have Rectories with cure of Souls e-
very where in their Parishes. And that Bishops
may the better confine others to honesty of Ap-
parel, and to decent Tonsures, and Crowns, and
Trappings for their Horses, let them take care
that this be in the first place observed by the Cler-
gymen of their own Families, by causing them to
wear Garments, & Spurs, Bridles, and Saddles that
become Clergymen.

• 16. c. of *Later. Council*, 1216. which enjoins the
close Cope, as has been shew'd in Notes on *Langton's*
Const. An. 1222. Can. 30. and it likewise forbids gilt
Spurs, gilt Bridles, gilt Saddles, gilt Pectorals.

p 3. *A.* read *Talaribus*, not *calcarib.*

15. We are inform'd by many credible Men,
that many being careless of their Salvation, are
not afraid, after they have contracted Matrimony,
clandestinely to retain their Wives, and Churches
too, and get new Benefices, and be promoted to
sacred Orders, against the Statutes of the holy
Canons; nor afterwards, when it seems expedi-

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ent for the ¶ Children that have been the Issue of the Marriage, while the Parties are living, or after their death, to prove that Marriage was contracted by Witnesses, or Instruments. But because Perdition of Souls, neglect of their Salvation, lessening the Goods of the Church, use to be the consequence of Clergymens living with Women in Matrimony, or otherwise; and that the Salvation of Souls, and the good of Churches may be consulted, we think fit thus to obviate this reigning Evil, that if it be discover'd, that any have in this manner married, let them be wholly removed from their Churches and Benefices, and we decree that they, and all other married Men be accordingly *ipso jure* deprived. And if after such Matrimony they have gotten any Goods, by what means soever, let them not be applied to the use of their Children, or Wives of this sort, either by themselves, or by persons privately employ'd about their Goods, but to the Churches which they had, or in which they were benefic'd. And let their Sons by no means be admitted to any Churches or Benefices; as being ¶ utterly incapable, unless the *Roman* Pontif dispense with them in a Canonical manner, their Merits so requiring.

¶ *Proli*, so *J. A.* read, (as well as Sir *H. S.*) as appears by his Gloss, tho' it be *prole* in the Text.

¶ *J. A.* makes it a moot Point whether such Children are Bastards; he does not mean Children begotten in Wedlock by those who were merely in inferior Orders, but Children begotten by such as were in holy Orders, that is Sub-deacons at least, or however beneficed Men: But it was scarce worth disputing, whether they were Bastards in Theory, since it is evident they were treated as such by the Governors of the Church.

16. Tho' Ecclesiastical Reformers have always been studying to expel out of the Church the offensive

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ſenſive ſtench of ſ filthy Luſt, by which the gracefullneſs of the Church is much leſſen'd; and which is ſo very bad as to preſs forward without Shame; we therefore being unwilling to connive at that which is the reproach of the Church, following the Statutes of the *Roman Pontifs*, and eſpecially the Decretal of Pope *Alexander* publiſh'd on this Head, do ordain, and charge, that where Clerks, eſpecially thoſe in Holy Orders do keep Concubines ^a publickly in their Houſes, or elſewhere, they do ^a wholly diſcard them within a Month; ſo as never to keep them, or any others for the future. We ordain, that if they go againſt this [Conſtitution] they be ſuſpended from Office and Benefice, ſo as not to meddle with Eccleſiaſtical Matters till they have made due Satisfaction in this reſpect: Otherwiſe we declare them *ipſo jure* deprived. And our Will is alſo, that Arch-biſhops, and Biſhops cauſe diligent enquiry to be made on this Head in all Deaneries, and what we ordain to be obſerved.

17. Altho'

ſ *J. A.* gives two reaſons why Incontinency is more commonly puniſh'd by the Church, than other mortal Sins, *viz.* 1. Becauſe of its Infamy: Other Sins, ſays he, are greater, but this more ſcandalous. 2. Other Sins admit of Palliation, this does not.

^c *Diſtinct.* 81. c. 16. It is a *Decretal* of *Alex.* the Second, 1065.

^a That is, ſays *J. A.* as a Man keeps a Wife: He adds, that it is no tranſgreſſion againſt this Conſtitution for a Clerk to keep ſuch a Woman privately in his own Houſe or anothers. But what if he be diſcover'd to lie with her? He answers, this does not prove it to be publick, it is yet ſaid to be in private, unleſs ther be other proof.

^a If the Clerk keep a Whore in publick, ſo as never to have her a whole Month at once, but for a whole Year at times, does he avoid the Penalty of this Conſtitution? *J. A.* declares in the affirmative, that he does,

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and applies the old Proverb, *Si non caste tamen caute*. This is a great demonstration of the looseness of that Age, and especially of the Canonists.

17. Altho' the holy Fathers did so abhor the taking Benefices by Inheritance, that they forbid the Succession of legitimate Sons in their Fathers Churches; yet some born by nefarious Embraces, trampling on the Authority of Right, and honesty, invade Benefices which their Fathers held, & without any mediate Successor. Now we who came into these parts to recover the ² fall of Ecclesiastical Honour taking this into our Consideration do ordain, and firmly forbid the Prelates of the Church for the future to institute, or admit any such Men into Benefices which their Fathers held by any Title whatsoever, by any colour or artifice, if ther have been no mediate Successor. And we decree, that they who have already gotten such Benefices shall be deprived by this Statute.

¹ Sir H. S. reads *nullo modo*, and so it is at one place in J. A's Gloss; but in the Text it stands right, viz. *nullo medio*.

² *Ad relevandum honestatis Ecclesiasticæ casum* Sir H. S. not *statum* as J. A.

18. We have thought fit, that it be ordained against the Outrages of Robbers, with which *England* too much abounds (which would not be, as we are informed, if great Men did not maintain and defend them.) That no one do protect, or keep them in their Houses, or ^a Vills, whom they know to practise Robbery, or of whom it is manifest that they do it. And we put them under the Yoke

^a So Sir H. S. J. A. has in *locis fidelium*, and in his Gloss seems to think it lawful to maintain Robbers in Places inhabited by *Jews*, or Heretics; but I cannot conceive what occasion the Legate could have to use
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an Expression of this sort here in *England*: For ther was no part of *England* then inhabited by Heretics, or reputed Heretics; and tho' we had *Jews*, yet we had no Towns, or Villages appropriated to them.

Yoke of ^b Ecclesiastical Excommunication, who transgress in this Point, if upon a third Admonition from the Ordinary of the Place they do not discard them. And we will and ordain, that a general Admonition suffice without expressing any Man's name; so that it be done in such a publick, solemn manner, that it may come to their knowledge.

^b I follow Sir *H. S. J. A.* observes that the greater Excommunication must here be meant, because it is for a Crime. And adds, ther is a lesser Excommunication, which is from the Communion of the Faithful, the greater, which is from the Participation of the Sacraments. Yet *Gregory* the present Pope in a Decretal bearing date the same Year with this Council, declares, that the greater Excommunication is repelling Men from the Communion of the Faithful, and the lesser, from the Participation of the Sacraments. The Distinction was new, and the Glossator follow'd his own Judgment, rather than his Books in this Case. See *Decretal. L. 5. Tit. 39. c. 59.*

Tho' the Distinction of greater and lesser Excommunication be found before this in the Sum, or Abridgement of some Decretals, yet not in the Text, however not before the Year, 1216.

19. We hear, and rejoyce, that the religious Abbots of the Order of *St. Benedict* in *England* meeting together in their general Chapter (as *Sons returning to their Bounds* according to the Prophet) have providently ordained, that for the future according to the Rule of *St. Benedict*, they ought to abstain from eating Flesh, excepting the weak and infirm, who ought to have Provision made for them in the Infirmary according to the said Rule: Which we approve and ordain to be in-

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violably observed. And we add, that Novices at the end of the Year of Probation, in which they wore the Monastick Habit, be compelled by Canonical Censure from the Abbot, or Prior forthwith to make Profession. And let none be admitted Abbot, or Prior who has not made Profession. And we think fit, that what has been said of making Profession at the end of the Year of Probation, be extended to Canons Regular, and Nuns. As to other Points which concern the Correction and Reformation of these and other Regulars, we intend to make Provision; and the Lord permitting we will ordain, and command what we think useful to their Churches, and wholesome for themselves, ^e to be strictly observed by their Chapter.

^e Sir H. S's Copy says, *and we will command the Statutes to be solemnly publish'd by their Chapters.* This seems to be a better Lesson, than that of J. A's which I have put in the Text; yet J. A. who mentions this Lesson in his Gloss, asserts the other to be genuine.

29. As to Archdeacons we ordain, that they do prudently and faithfully visit the Churches, inquiring into the sacred Furnitures and Vestments, and how the Diurnal and Nocturnal Services are perform'd in the Church, and in general both into Temporals and Spirituals; and that they diligently use Correction where ther is occasion. But let them not aggrieve the Churches with superfluous Expenses. And let them demand moderate Procurations ^d only when they visit, and not bring Strangers with them, and be modest both as to their ^e Retinue, and Horles ^f. Let them take nothing

^d *Dumtaxat* stands in the Latin, as *only* does in this Translation, to as to be appli'd either to moderate foregoing, or *when they visit* following.

^e Lat. *Familia*.

^f J. A's Copy has *cum visent, corrigant, &c. aliquid ab alijs, &c.* But this does not seem to me to agree so well with what follows.

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thing from any Man for not visiting, not correcting, or punishing; nor pass Sentence on any unjustly in order to extort Money from him. For since these and such like doings favour of Simony, we decree, that they who practise them be compell'd to expend the doubles of what they have extorted in pious Uses at the discretion of the Bishop; beside other & Canonical Punishment. And let them be very careful to be often present in the Chapters of every Deanery; and there diligently instruct Priests among other things, to live well, and to know and soundly understand the words of the Canon [of the Mass,] and of Baptism, as being of the Essence of the Sacrament.

§ That is suspended *ab ingressu Ecclesie*, till they pay the Doubles; for I find no other Punishment for the Fault. *Sext. Decret. L. 3. T. 19. c. 2.*

21. We have thought fit strictly to forbid the Prelates of Churches, and especially Archdeacons, Deans, or their Officials, and all others that are delegated to all Causes, or any Affairs that come into the Ecclesiastical Court by reason of its Ecclesiastical Jurisdiction, that they do not hinder Peace and Concord between Parties in their Discords and Quarrels, but permit the Parties to withdraw from their Judicature whenever they please by Composition; on condition that the Business be such as that a ^b Composition, or Transaction is allow'd by Law; nor let any thing be demanded on this account.

^b See *Decretal. L. 1. c. 36. de Transactione*; and yet it will be difficult to determine in what Cases 'tis permitted.

22. The Name BISHOP (that is Superintendent) clearly expresses what is required of the venerable Fathers the Archbishops, and Bishops to be done in Virtue of their Office. It concerns

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them to observe, and watch over their Flock by Night according to the Evangelical Phrase. And since they ought to be a Pattern by which their Subjects are to reform themselves, which cannot be done except they shew an Example, we exhort and admonish them in the Lord, that they reside upon their Cathedral Churches, and ⁱ decently celebrate Mass there on the principal Festivals, and the *Lord's-days* ^k in *Lent* and *Advent*. Farther, that they go about their Dioceses at seasonable times; correcting, and reforming, and consecrating Churches; and sowing the Word of Life in the Lord's Field. For the better performance of all this let them twice a year (that is in *Advent*, and the ^l greater *Lent*) cause the Profession which they made at their Consecration to be read to them.

ⁱ *Congruentes Missas*, *J. A.* that is, I suppose *proper Masses*.

^k Here *J. A.*'s Copy adds *Et*, but I conceive it is better left out as in Sir *H. S.*'s.

^l The Canon Law mentions three *Lents*, *Causa* 22. *Quest.* 5. c. 1, 2. We have mention of long Fasts before *Midsummer*, *Michaelmas*, and the Assumption of the *Virgin*. *J. A.* says *Advent* was a *Lent*.

23. Since not only Power, but Discretion and Knowledge are principally required in determining Matters, all are to take heed that such a Judge, or Hearer of Causes be not deputed, as may pass an imprudent or unjust Sentence thro' Simplicity, Unskilfulness, or want of Experience, so as that the Guilty be acquitted, the Innocent condemn'd. Therefore we have thought fit to ordain, that Matrimonial Causes, which are to be handled with peculiar deliberation and diligence be committed to provident and trusty Men, and such as are skilful in the Law, or have at least been well exercised in Causes. But if any Deans, Archdeacons,

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cons, or Abbots have by Privilege, or allowed Custom the Cognisance of Matrimonial Causes, let them take care to make diligent ^m Examination: So that neither they, nor their Delegates proceed to a definitive Sentence, before they have diligently consulted with the Bishop of the Diocese concerning the Merits of the Cause, and ask'd, and receiv'd his Advice. And we will, that Exempt^s, ⁿ or such as are specially privileg'd be oblig'd to this.

^m *Ordinare*, *J. A.* but I follow Sir *H. S.* and the other Copy mention'd in *J. A.*'s Margin.

ⁿ *J. A.*'s present Text says, *except they are specially privileg'd*, but his Gloss agrees with Sir *H. S.* and my Translation. The Monks of some such privileg'd Monastery did probably make this Alteration.

24. We ordain, that the ^o Oath of Calumny in all Ecclesiastical Causes ^p whatsoever, and of speaking the truth in Spiritual Causes be for the future taken in the Kingdom of *England*, according to the canonical and legal Sanctions, a prevailing Custom to the contrary notwithstanding, that so the Truth may more easily be discover'd, and Causes sooner determin'd. We add to this Statute, that probatory ^q Terms may be granted at the Discretion of the Judges according to canonical and legal Sanctions.

25. The

^o Of this see *Decretal. L. 2. Tit. 7.* It will there appear that this Oath is not universally requir'd. This Oath was first introduc'd by the Civil Law: It is to be taken both by Plaintiff, and Defendant, and contains that the Party believes his Cause to be just, that he will use no false Proof, nor cause any unnecessary Delay, nor give any Bribes.

^p *Cujuslibet*, Sir *H. S.* but I read *quibuslibet*. *J. A. civilibus*.

^q Of these see *Caus. 3. Quest. 2, 3. per tot.* and *Decretal. L. 2. Tit. 8.* This granting of time for bringing Evidence,

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vidence, and other pretences is the chief occasion of those Delays which are the reproach of the present Ecclesiastical Courts, tho' the Oath of Calumny was introduced to prevent them.

27. The Craft of the old Enemy frequently turns the use of Proctors, which was introduced as an attendance to Justice, (that they who cannot wait upon their own Cause, might have their absence supplied by others) into a Mischief: For a Custom is said here to prevail, that he who is cited to a certain day, constitutes a Proctor for that day without Letters, or by Letters not signed with an authentic Seal: By which means it happens, * that while such a Proctor will not prove his Mandate, or confirm his Letters by Witnesses, or some other Impediment comes in the way, nothing is done that day; nor on the following day, the Proctor's Office being at an end †, and so all former diligence is lost without any effect. As a caution against this Fallacy, we ordain, that for the future a special Proctor be constituted ‡ absolutely, or if he be constituted for a day, yet not for one day only; but we will, that he be constituted for several days for a continuance, if need be, and we presume him so constituted. And let the Mandate be proved by an^a authentic Writing, unless he be constituted in the Acts of Court; or the Constitutor cannot easily find an authentic Seal.

* Here I follow Sir H. S. only reading *fallacia* for *fallaci*, and *aut* for *ut* before *si*; and adding *officio* from J. A. after *Procuratoris*, tho' if we read *Procuratorio*, we need add nothing, but translate, *the Proxy being at an end*.

† Add here by Conjecture, *for want of a good Proxy*. Both Copies are dark in this Constitution.

‡ Absolutely, that is without any limitation of time.

^a That is, sign'd by good Witnesses.

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26. Parties in a Suit do whatever they can against each other in contempt of Justice. We have heard from many that Men obtaining Letters of Summons, send them to the place where the Party to be cited dwells by three vile Messengers; two of which put up the Letters over the Altar, or in some other place; and the third presently takes them away: Afterwards those two testifying that they have summon'd him, according to the manner and custom of the Country; the Party is excommunicated, or suspended as contumacious, who was wholly ignorant of the Summons, as well as the Contumacy; therefore prosecuting this detestable Abuse, and others like it with a zeal for Justice, We ordain, that Letters of Summons in Ecclesiastical Causes in the Kingdom of *England*, be not sent by such as obtain them, or by their Messengers; but that the Judge send them by his own faithful * Messenger at the moderate Expence of him who obtain'd them: And let him diligently seek the Party to be cited; and if he cannot find him let him cause the Letters to be publicly read on some *Lord's-day*, or other solemn Day in the Church of that place where he uses to dwell, while Mass is in singing, and also to be explain'd: Or at least let the Summons be directed to the Dean of the Deanery, in which the cited Party dwells, and let him at the command of the Judge faithfully execute it by himself, or by his certain and trusty Messengers. And let him not neglect to certify the Judge of what he hath done thereupon.

* This seems to be the original of Apparitors in *England*.

27. The more necessary the use of sealed Instruments is in *England*, where there are no public Notaries, the greater ought the caution to be, lest thro'

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thro' the unskilfulness of some they be abused. For we hear Letters are drawn and sealed, not only by *7* lesser Clerks, but Prelates; in which it is implied that such a Man made a Contract, or was present at the making of it, or at any Business, or was summon'd to Court, or had Letters of Summons shew'd him; who yet was not present, nor any where to be found, nay perhaps was then in another Province or Diocese. Now since such Writings do plainly imply Forgery, we strictly forbid the drawing of them, and do enact with a provident deliberation that they who shall be convicted of offending in this respect, and who knowingly use such Letters to the damage of another be punish'd as *2* Forgers, and as those who use forged Instruments.

7 By lesser Clerks *J. A.* understands Officials and Deans Rural: Yet contends that Rectors of Churches (if not their substituted Curates, for the Gloss is very dark and ill printed) are Prelates, which to me seems intolerably incongruous; not but that Rectors are often styled Prelates in the Canon Law, and are clearly said to have the power of excommunicating in notorious Cases, but because Officials, and Deans Rural were superior to mere Rectors. Therefore by *lesser* Clerks I understand all inferior to Incumbents, and by Prelates all Incumbents and their superiors. These lesser Clerks might in some cases sign Certificates, and were probably retained in the Ecclesiastical Courts, as Registers, Seal-keepers, &c.

2 The Punishment of Forgery in Clergymen of all sorts was of old doing Penance for Life in a Monastery. See 50. *Dist. c. 7.* In *J. A.*'s time it was *Suspensio ab officio & beneficio.*

28. Because Notaries Public are not used in *England*, and therefore ther is more frequent occasion for authentic Seals; that ther may be no want of them, we ordain, that not only Archbishops, and Bishops, but their Officials; also Abbots,

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bots, Priors, Deans, Archdeacons, and their Officials, and Deans Rural, as also Cathedral Chapters, and all Colleges, and Convents have a Seal, either jointly with their ^a Rectors, or distinct from them, according to their Custom or Statutes. Let every one of the aforesaid have a Seal with their several Distinctions; that is the name of their Dignity, Office, or College, as also the proper Name of the Men who enjoy the Dignity, or Office, graven in plain Letters or Characters, if the Office be perpetual. Let them, who have taken an Office, which is but for a time, as Rural Deans, and Officials, forthwith, and without trouble resign their Seals at the expiration of their Office to him from whom they receiv'd it; which Seal is to have the Name of the Office only graven upon it. And we charge, that they be very careful as to the Custody of their Seal, that every one keep it himself, or commit it to the keeping of one only, of whose fidelity he is assured, and let him take an Oath that he will keep it faithfully, and not lend it to any one for the sealing of any thing, nor seal any thing himself to the prejudice of another, but what his Principal hath first read and view'd with attention, and so commanded him to seal. Let ther be a faithful and provident caution used in setting the Seal; faithful, so as that it be easily granted to those that want it: Provident, so as that it be wholly denied to Falsaries, or Forgers. We also ordain, that the proper date of the day, time and place be inserted at the beginning, or end of every authentic Writing.

- That is Abbots, Priors, or other Heads.

29. We have heard a clamour of Justice complaining that Advocates do often obstruct her by Cavils and Tricks, and Judges make away with her

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her by Ignorance; and Parties evade her by Obstinacy. For it sometimes happens, that ^b one who is sent to take Possession of any thing, for the sake of preserving it, endeavours to retain it; tho' the Adversary return within the year; and be ready to satisfy the Law in all respects. And sometimes he who is sent to take Possession, is not able to get it either within, or after the year; [or] whenever he is constituted the true Possessor, by reason that his Adversary opposes him with Arms. Therefore standing up for the support of Justice, We ordain by the approbation of this holy Council, that he who would be advanced to the Office of an Advocate in general make Oath before the Diocesan, in whose Jurisdiction he is by Birth, or Habitation, that *in the Causes which he undertakes he will perform the part of a faithful Patron*; not so as to pervert or delay Justice to the adverse Party, but by defending the Cause of his Client by Law and Reason. In Matrimonial Causes, and Elections let him not be admitted [to plead] unless he take the like Oath, particularly as to those Causes; nor in other Causes for above three Terms without taking the like Oath, unless it be in behalf of his own Church, or for his ^c Lord, or known Friend, a poor Man, a Stranger, or any miserable

^b By the Canon Law in this Age, if he that was sued for a Benefice of which he was in actual Possession, did not appear upon due Summons, the Plaintiff was sent to take Possession of it by way of Sequestration; if the former Possessor appeared within the year, Sentence was given after hearing the Merits of the Cause; but if he did not appear within the term, he that was sent by the Court was rightful Possessor. But this was wholly abolished by Pope Innocent in the Council of Lyons. *A.D.* 1244: See *Decretal. L. 2. Tit. 14. per tot. Sext. L. 2. Tit. 7.*

^c His Patron probably; for beneficed Clergymen were frequently Advocates.

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miserable Person, for whom he thinks fit to plead. Let all Advocates take heed that they do not suborn Witnesses by themselves, or by others, nor instruct Parties to suggest what is false, or to suppress what is true. Let them who transgress be *ipso facto* suspended from their Office, till they have made proper Satisfaction; and yet have other due Punishment inflicted on them. Let Judges who know not the Law, if any doubt arise, by which Damage may happen to either Party, ask the Advice of some knowing Man, at the Expence of each Party. We ordain also, that they observe the Constitution of the General Council, both in ordinary and extraordinary Judicatures, faithfully^d keeping by them the original authentic Acts; or that they cause them to be kept by their Scribes, as they ought to do, and grant the perusal of them to the Parties concern'd. To whom all [the acts] after they are written, we charge to be publickly read, that if any mistake hath been made in writing it may be rectify'd; that the truth may clearly appear as to the Acts. Let Judges also provide, that when they have decreed to send any one to take Possession, by reason of the Contumacy of the adverse Party, they take proper caution from him that is to be sent for restoring Possession, if the Adversary return within the year, together with the Profits, if any have been receiv'd, after lawful Expences deducted. And we decree, that he be wholly deprived of his right (on Supposition that he had any right in it) who keeps Possession by violence, so that another be sent, on account of his Contumacy, and made true Possessor after the year [be ended.]

When.

^d Cap. 38. of Later. Council, 1216. which orders two Scribes, or Registers for the Acts of every Court.

Sir H. S's Copy divides this last Constitution into three, whereas it was evidently but one at first.

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When this was done, upon the third day the Lord Legate solemnly began *Te Deum*, all standing up, and after the Antiphon, *In viam pacis*, and the Psalm *Benedictus Deus Dominus Israel*, and the Blessing given, says *Matthew Paris*, with little Joy all departed.

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PREFACE. *Archbishop Gray's Constitutions.*

THE following *Constitutions* of Walter Gray are styled *Provincial*, as being clearly intended to be observed by the whole Province of York, tho' publish'd by the sole Authority of the Archbishop before named: And ther are other Instances besides this, of *Archbishops* making *Constitutions* without consent of Synods. I the rather place it among the *Provincials*, because it will appear, that some *Constitutions* of the greater Province of Canterbury were copied from these of *Archbishop Gray*.

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Archbishop Gray's Constitutions.

Sir H. S. vol. 2. p. 290.

Lat. THE Decree of the Lord *Walter Gray*, formerly Archbishop of *York*, Primate of *England*, Legate of the Apostolical See publish'd at *York*, at the time of his Visitation, to the Honour of God, and the present Information of the Church of *York*, and to the Memory of all that are to come.

1.

1. Whereas

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1. Whereas great Controversy often ariseth between the Rectors, or Vicars of Churches, within the Province of *York*, and their Parishioners concerning divers Ornaments, and things belonging to the Church; therefore that it may be known what the Rectors, or Vicars are concern'd to uphold, and repair, and what things and Ornaments of the Church are to be repair'd by the Parishioners; we ordain, that all our Parishioners be so well inform'd in the following Particulars, as that they do all in every respect observe them, that is the ^e Chalice, ^f the principal Mass-vestment of the Church, with the Chesible, the Alb, the Amyt, the Stole, the Maniple, the Girdle, with three Towels, and Corporals, and other decent Vestments for the Deacon [and Subdeacon] according to the Condition of the Parishioners, and the Church; with a Silk Cope for the principal Festivals, and two others for presiding in the choice at the Feasts aforesaid, a Cross for Processions, and another lesser Cross for the dead, a Bier for the dead, a Vessel for the holy Water, an Osculatory, a Candlestick for the Paschal Taper, a Cense-pot, a Lanthorn with a little Bell, a Lenten Vail, two Candlesticks

^e I do not explain these Words here; because I think it will be done more conveniently at the fourth Constitution of Archbishop *Winchelsey*.

^f Both Copies in Sir *H. S.* (and I have none other) are corrupted, I read thus, *Calix, Missale Vestimentum ipsius Ecclesie principale, casula, &c.* without making a Comma at *Missale*, as if the Mass-book were thereby meant, which is afterwards expressly mention'd, and therefore ther was no occasion for it here, and deleting, *viz.* before *Casula*. For it is certain a Cope, not a Chesible was the principal Vestment: And this Constitution provides four Copes to be found at the Parishioners Cost, as *Winchelsey's* Constitution does nor.

M

for

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for the 8 Collers; the Legend, the Antiphonar, the Grail, the Pfalter, the Troper, the Ordinal, the Missal, the Manual, which are the Books; the Frontal for the high Altar, three Surplices, a decent Pix for the Body of *Christ*, Banners for the Rogation-days, great Bells with their Ropes, the holy Font with a Lock and Key, the Chrismatory, the Images in the Churches, the principal Image (in the Chancel) of that Saint, to which the Church is dedicated; the repair of the Books and Vestments, with all the things aforesaid, as occasion shall be; the Beam-light in the Church, the repair of the Body of the Church, and building of it, with the Steeple within and without, the Glais-windows, the Fence of the Churchyards, with the ^h Wings of the Body of the Church, and every thing which is known to belong to the Parishioners.

8 So our Ancestors call'd the Acolyths, or Candlebearers, as they are styl'd.

^h Read *alis*, not *aliis*.

All other things shall belong to the Rectors, or Vicars, according to their several ⁱ Ordinations; that is the principal Chancel, with the Reparations thereof, as to the Walls, and Roofs, and Glais-windows, with Desks and Benches, and other decent Ornaments, that they may sing with the Prophet, ^k *Lord I have loved the comeliness of thy House*, together with the Manse of the Rectory, and the Reparation thereof from time to time. And let Rectors or Vicars know, that they may be compelled to these, and other things not written in this Book by the Ordinaries of the Places, according to this and other Constitutions approved in this respect.

2. Because

ⁱ i. e. Compositions, or Endowments.

^k *Psal.* xxvi. 8. *sec. vulg.*

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2. Because by means of divers Customs in demanding Tithes in divers Churches great Disputes, Scandals, and Malice arise between Rectors, and their Parishioners, our Will is, that in all Parish Churches throughout our ¹ [Archbishoprick, or Archdeaconry] ther be an uniform demand of Tithes and other Ecclesiastical Profits, ^m unless the Parishioners will redeem them at a competent rate. And our will is that the Tithe of Hay be paid wherever it grows, whether in great Meadows, or less, or in the ⁿ Heads of Plough-Lands, and to the advantage of the Church. As to the feeding of Cattel, our will is as to Lambs, that for six, or fewer, so many Halfpence be paid; for seven Lambs, or more, the seventh Lamb; but so that the Rector who receives the seventh Lamb for Tithe, pay back three Halfpence ^o; [he who receives the eighth a Penny, he who receives] the ninth a Halfpenny; or else the Rector may chuse to stay till the next year, and receive the tenth: And let him that so stays always insist upon the second, or at least the third best of the Lambs of the second year; and this on the account of the years delay. This is also to be applied to the

¹ *Our Province*, Archbishop *Winchelsey*. *L.* here says, that in some Books this is attributed to Archbishop *Boniface*, in one to an ancient Synod at *Merton*. *Boniface* held a Synod there, *Spelm. vol. 2. p. 304.*

^m Archbishop *Winchelsey's* Statute here adds, "First our Will is, that Tithe of Fruits be paid in full, without any deductions, or diminution on account of Expences, and of the Fruit of Trees, and all Seeds, and Garden Herbs.

ⁿ *W. G's* Constitution is *Chevists* in the Fore-acres, or heads of Plow-land, but Archbishop *W's* *Cheimis* in the High-ways

^o The words in Hooks are not in the Constitution of *W. G.* but therefore the Sense is imperfect, and must be supplied from Archbishop *W's* Constitution.

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Tithe of Wooll. If the Sheep have fed in one Parish in the ^p Winter, in another during Summer, let the Title be divided. If any buy, or sell Sheep between the Winter and Summer, and it be certain from what Parish they came, the Tithe is to be divided, ^q as in case a thing belong to two several Houses: But if this be not certain, let that Church, within whose Bounds they are shorn, have the whole Tithe. As to Milk, our will is that the Tithe of it be paid, while it lasts; of Cheefe in its Seafon, of the Milk it self in Autumn, and Winter; unless the Parishioners will redeem it, and that to the advantage of the Church, our will is that Tithe be paid in full of the ^r profit of Mills. We ordain, that Tithes be paid of ^s Pastures of all sorts, whether common, or not common, according to the number of the Cattel, and the Days, and for the advantage of the Church. We ordain, that Tithes be demanded, and paid in a due manner of Fishings, and Bees, as of all other things yearly renewing, which are gotten by lawful means. We ordain that ^t [Personal] Tithes be paid of Handicrafts, and Merchants, and of the Gains of Negociation; as also of ^u Carpenters, Smiths,

^p Winter, says *L.* is from *St. Clement's*, Nov 23. till *St. Peter's*, Feb. 22. Spring till *St. Urban's*, May 25. Autumn begins Aug 24. *St. Bartholomew*; but here, says he, Winter and Summer include the whole year; reckoning from one Equinox to the other, or from *Michaelmas* till *Lady-day*, or from *All-Saints* to *Sts. Philip and Jacob*, according to several Customs.

^q This is a Civil Law Phrase. *W. G's* Copy says, *sicut de re qua acquiritur ex militia*.

^r Here *W. G's* Copy is not intelligible. *L.* inclines, that Tithe was due of the whole Profit, or Toll of the Miller without any deduction.

^s *W. G's* Copy here has *Piscariis* for *Pascuis*.

^t This Word is not in *W. G.*

^u *W. G.* has *Arentariis* for *Carpentariis*: 'Tis probably an

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an Error of the Scribe, or Press; if not we must suppose, that he meant Tithe of Rent.

Smiths, and Weavers, * Masons, and Victuallers; that is, let Tithes be paid of their Wages, unless they are willing, (with the Rectors consent) to make some certain payment for the Benefit, or the Lights of the Church. In demanding the ¹ principal Legacy let the Custom of the Province, with the ² Possession of the Church be observ'd; but so that the Rector, Vicar, or annual Chaplain have the fear of God before his Eyes in making the demand. But because we hear there are some who refuse to pay Tithes, we ordain, that Parishioners be admonish'd once, twice, and thrice to pay Tithes to God, and the Church; and if they persist in their refusal, let them be ⁴ suspended from entrance into the Church, and so be compell'd, if need be, by Church Censure to the payment thereof. But when they crave a Relaxation, and Absolution of the said Suspension, let them be sent to the Ordinaries of the place to be absolved, and punish'd in due manner. The Rectors, Vicars, and annual Chaplains of Churches who do not demand the Tithes effectually in manner aforesaid, either for fear or favour of Men, or for want of the fear of God, shall be involved in the Penalty of Suspension, till they pay half a Mark to the Archdeacon for their Disobedience.

* These are mention'd in Archbishop *Winchelsey's* Constitution only.

¹ That is a Mortuary, which first was voluntary, and bequeathed by Will, and then gradually grew into a Custom.

² That is the present manner of paying it.

⁴ The Curate, says *L.* on the Constitution of *Winchelsey*, p. 196. may excommunicate in general, and forbid the guilty Person entrance into the Church, upon Condition that such Curate be in Priest's Orders.

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Archbishop Boniface's Constitutions.

Sir H. S. vol. 2. p. 305.

The Constitutions of Boniface, Lord Archbishop of Canterbury, Uncle by the Mother to Eleanor, Queen Consort to King Henry the Third now reigning, Brother to Peter now Earl of Savoy) published at Lambeth.

Lat. **T**O all the Sons of Holy Mother Church throughout the Province of *Canterbury*, *Boniface* by Divine Miseration Archbishop of *Canterbury*, Primate of all *England*, and his Suffragans; for the Information of them that now are, and the remembrance of them that are to be.

The Sanction of the Divine Will, which has distinguish'd the order of all things, and the composition of all Nature in weight, number and measure, intended that earthly Government should follow the Pattern of the heavenly; by restraining Mankind (whom It design'd to a Dignity beyond the rest of the Creation) from sensual Lust by Laws of Nature, and from the frailty of their Wills by legal Institutes; that they who are mighty should not think they were allow'd an arbitrary Power over those below themselves; nor those below (whom an unalterable Series of Causes has distinguish'd from those above them, to whom they are by Nature equal) despise the Discipline of their Superiors. But as this habitable World is subject to the heavenly Government, so as to have Night and Day by a continual Succession according to the disposition of the heavenly Lights; so the Spiritual, and Terrestrial, the Sacerdotal, and Regal order of Governors should so manage the
the

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the Reins of Dominion put into their Hands, that the force of one should not obstruct the Proceedings of the other; but that each should assist the other with a mutual Charity; as partaking of that Light they have for the dispelling of Darkness from Men.

The former Fathers, and our Predecessors the Archbishops of *Canterbury*, Primates of all *England*, and their Suffragans, and especially *Edmund* the Friend of God, our late Predecessor, whose Memory is blessed, and whose Lot is among the Saints, and we also, who immediately have succeeded him in the Government, without deserving it, with our Brethren and Fellow Bishops, the Suffragans of the Church of *Canterbury*, in our times considering with great Concern, that the Grievances and Oppressions which lie hard upon the Liberties of the Church of *England*, do not at all turn to the advantage of the King our Lord, but rather to the great hazard of the Salvation of his Soul, and ours, and to the lessening of his Honour, and of that of the whole Kingdom, we have often with great Importunity and Reverence admonish'd, and petition'd him, and caused him to be petition'd; and have in season and out of season pray'd, and requir'd the Princes, great Men of the Kingdom, and Counsellors who manage the Affairs of the Kingdom, that they would remember with how many Plagues the *Egyptians* were smitten, because they forced the People of God, the Children of *Israel*, (who were a Type of the Ministers of the Altar) to serve in Brick, and Clay, subjecting them to undue Slavery contrary to the Precept of the Lord, and the Privilege of natural Right, by which a Man is bound not to do that to another, which he would not suffer himself; that they would prudently consider that *Christ* so loved his Church (for whose Sins Fathers are now by force

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taken from their Children, and the Sheep worry their Shepherds) that he with his own Blood blotted out the Hand-writing of Servitude occasion'd by *Adam's* Transgression, and has died her red with the Blood of Martyrs fighting with the Arms of Faith, against the Princes of the World, and secular Powers; that they would pay an humble deference to so pious a Privilege, that was purchas'd so dearly (the Charter of Liberty granted from Heaven to the Church, and afterwards renew'd upon Earth by the faithful Princes of the World) by permitting the *English* Clergy with a concern for their Liberty to offer the Sacrifice of Praise to God, lest their Persecutors should be drown'd in the Floods of divine Anger; if they force them to be Slaves in contempt of the divine Command. But altho' we have patiently labour'd with our repeated Petitions, yet our continu'd Importunity has never been heard, or produc'd its expected effect. And because what is usurp'd against the Prince of Heaven cannot be neglected without danger; we have provided certain Remedies in opposition to the Grievances aforesaid (as when we neither ought, nor can connive any longer, without offending God) by having recourse with Confidence to the Armour of Righteousness, which is the Word of God more piercing than a two edged Sword: And this we have done by the approbation of the Council by providently ordaining in opposition to the attempts of the Perverse in manner and form following.

1. ^a Observing that the Scythe of earthly Dominion is more licentious (Charity growing cold) put

^a These are the boldest Constitutions, that were ever made in an *English* Convocation: Nor would any King ever have been patient under such loads of Reproach as were

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were cast upon him by all Orders of Men, but *Henry the Third*; whose foibles, and especially his forgetfulness of Promises had made him contemptible at home and abroad: Nor would he probably have born such attempts as these of the Bishops, but that he was at present embarrassed with his Barons. Yet probably some publick opposition was made to these Constitutions. See Archbishop *Peckham's* Preface to his Constitutions at *Lambeth*, 1281.

put into the Harvest of our Lord, than the heavenly Law allows, which commands us to render to *Cæsar* the things that are *Cæsars*, and to God the things that are Gods, (*Christ* not sending Kings and secular Princes into his Harvest, but the Apostles and their Successors, who were by Faith Conquerors of Kingdoms and Kings;) we are smitten with Grief of Heart, and bitter Horror, fearing lest we incur the peril of [divine] Indignation while we neglect to encounter evil Men. Since therefore the Church of *England* a Parcel of the divine Harvest is several ways grinded by direful Concussions, sacrilegious Insults, new Usurpations, nefarious Oppressions, not only against divine Rights and canonical Statutes, but also against the Liberties granted by Kings, Princes, and other great Men of the Kingdom, and this not without offending the supreme King, and to the perpetual danger of the Souls of our temporal King, and of the great Men of the Kingdom, and of our own Subjects, we can no longer pass them over with Connivance. We by the Authority of this Council forbid, and ordain, that if it happen from this day forward, which God avert from the sight of the faithful Sons of Holy Mother Church, that an Archbishop, Bishop, or other inferior Prelate be call'd by the King's Letters before a secular Judicature, to answer there upon Matters which are known to concern merely their Office and Court Ecclesiastical, as whether they have admitted, or
not

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not admitted Clerks to vacant Churches, or Chapels, or have instituted, or not instituted Rectors in the same; whether they have excommunicated, or denounc'd excommunicate their Subjects interdicted, or consecrated Churches, have celebrated Orders, have taken cognisance of Causes purely Spiritual, as Tithes, Oblations, Bounds of Parishes, and the like, which cannot concern the secular Court; or have taken cognisance of the Sins of their Subjects, or their Excesses, as Perjury, breach of Faith, Sacrilege, Violation, or Perturbation of Ecclesiastical Liberty, (especially because such Violators, and Perturbators do ^b *ipso facto* incur the Sentence of Excommunication by Charters granted by our Lord the King to the Church) or whether they take cognisance of Actions, Personal concerning Contracts, or ^c *quasi* Contracts; Trespases, or *quasi* Trespases, either between Clergymen, or between Clergymen Complainants, and Laymen Defendants; or whether they have not compell'd Ecclesiastical Persons amerced at the command of our Lord the King to pay such Amercements, or have not themselves paid them for them; or whether they have exercised their Canonical accustom'd Jurisdiction in the Churches,
or

^b *Magna Charta* was passed into a Law by this King, *A. D.* 1225. and it was renew'd by him again, *A. D.* 1253. at which time this Archbishop *Boniface*, and his Suffragans solemnly with Lamps in their Hands pronounc'd sentence of Excommunication against the Intruders of it in *Westminster-Hall*. *L.* says that *Charta de Foresta* is also here meant.

^c *Quasi* Contract is, when a Man takes care of the Goods of an absent Friend, or of the Estate of a Minor, or Lunatic, in which Cases ther be no real Agreement, but yet the Civil Law supposed one. *Quasi* Trespas is, when a Man hires, or borrows a Horse, but keeps it somewhat longer, or rides it farther than he said he should.

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or Chapels annex'd to their Bishopricks, and Monasteries, and vacant by the death of their Prelates; or whether they have done, or not done any thing of this sort pertaining to their Office, we ordain by Authority of this present Council, that Archbishops, Bishops, and other Prelates do not come, when they are called for such spiritual Matters; since no Power is given to Laymen to judge God's anointed; ^d but they are under a necessity of Obedience. Yet that deference may be paid to Royal Majesty let them go, or write to the King, that they cannot obey such Royal Mandates, but ^e at the hazard of their Order. And if our Lord the King in his Attachments, Prohibitions, Summons, make mention of the Right of Advowson, not of Tithes, or Chattels, not of Perjury or breach of Faith, nor of the Transgressions of his Subjects and Bailiffs, the Correction of whom he asserts to belong to himself, not of Sacrilege, or the Perturbation of Ecclesiastical Liberty; then let the said Prelates intimate to him, that they take no cognisance of Advowson, Chattels, or other things belonging to his Court, and intend no such thing; but of Tithes, Sins, and other mere spiritual Things belonging to their Office, and Jurisdiction, and to the health of Souls; admonishing and intreating him, not to obstruct them as to the aforesaid Particulars. And beside this let the Bishop, who is particularly concern'd, go to the King, and admonish him over and again, that he consult his Soul's health, and wholly desist from such Mandates: And if he does not, then upon solemn notice given by the Bishop, let the Archbishop, if in the Province, or else the Bishop

^d This is taken from *Decret. L. 1. Tit. 10. Laicis super Ecclesiis & Ecclesiasticis personis nulla sit attributa facultas, quos obsequendi manet necessitas non imperandi auctoritas.*

^e Of this see the whole Title now mentioned.

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shop of *London*, as the Dean of the Bishops, calling two or three more of the Bishops to him, go to the King, and admonish him, and earnestly require him to supersede the aforesaid Mandates; and if our Lord the King contemning such Exhortations and Admonitions, do by himself, or by others proceed to [make] such Attachments and Distresses, then let the Sheriffs and Bailiffs whatsoever they be, who make the Attachment or Distress be laid under the Sentences of ^f Excommunication, and Suspension by the Diocesans of the Places in form of Law. Let the same be done, if the Sheriffs or Bailiffs make such Attachments, or Distresses during the Admonitions to our Lord the King to be made in manner aforesaid. And if the Sheriffs or Bailiffs persist in their Hardness, let the Places in which they dwell, and the Lands which they possess in the Province of *Canterbury*, be laid under an Ecclesiastical Interdict, by Authority of this present Council, by the Diocesans of the Places, after solemn Notice of the Diocesan [principally concern'd]. And if they who make such Attachments be Clerks and benefic'd Men, let them be suspended from their Office, and if they persist in their malice, be forc'd to desist, and make Satisfaction by withdrawing from them the Profits of their Benefices; and if they be not benefic'd, let them not be admitted to any Benefice within the Province of *Canterbury* for five Years time ^g, tho' they be presented. But let the Clerks who wrote, dictated, or signed the Writ of Attachment,

^f That is, that one of these Sentences be inflicted, according to the quality of the Offence, and the Offender, says *L.* But the Reader will here observe the great injustice of these Sentences, by which the Principals are acquitted, and the Instruments only censured.

^g *L.* here observes that this part of the Constitution did not take place.

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tachment, or Distress, or gave his Advice, or Assistance toward it be canonically punish'd: Nor let any of those, who are for any reason suspected of the aforesaid [Crimes] be admitted to any Ecclesiastical Benefices, till they have purged themselves from them. And if our Lord the King having been sufficiently admonish'd, or any other secular Power, yet do not revoke the Attachments, let the Bishop who has been distress'd, put the Streets, Vills and Castles, which our Lord the King, or other secular Power holds within his Bishoprick under an Ecclesiastical Interdict. And if the King, or other secular Potentate persist in his Hardness, let other Fellow-Bishops resent such a Distress as committed in common upon them all, and as a publick Injury to the Church, and lay the Cities, Demefnes, Burroughs, Castles, and Vills of the King himself, or of the other Power being within their Bishopricks, under an Ecclesiastical Interdict by Authority of this present Council. And if upon this the King do not within twenty Days after revoke such Attachments and Distresses, but rather lay his Hand more heavily upon the Church, then let the Archbishop, and Bishops lay their own Dioceses under an Ecclesiastical Interdict. Let the same be done as to the Lands, Castles, and Burroughs that enjoy Royal Privileges within the said Province. And if any Bishop be found remiss in this Respect, let him be severely reprehended by his Metropolitan, and if he persist in his neglect, be canonically punish'd by him. And let his Diocese notwithstanding be laid under Ecclesiastical Interdict by the consent of all the Prelates, and by his own given in this present Council. And if the Acts of Process are demanded from any Bishop, Judge Ecclesiastical, or inferior Prelate, who is compell'd by Distresses, or who voluntarily appears before our Lord the King,
or

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or his Justices to allege the Privilege of his Court;
^a in a Case not allow'd by Law, *viz.* to admonish
 them to desist from their Injuries; to the intent
 that by those [Acts] it may appear, whether he
 has in any of the aforesaid Cases acted contrary
 to the King's Prohibition; or if any Oaths, Ex-
 cuses, or Purgations are required therupon; let
 him by no means shew the Acts, or give his Oath;
 since the Instruments of this sort may be shew'd
¹ by the Parties, or by one of them if ther be oc-
 casion. And if he be a Clerk, who is arrested on
 this account, let the Diocesan of the arrested, or
 impeached Clerk, or the Archbishop, or the Bi-
 shop of *London* as Dean of the Bishops taking
 some other Bishops with him demand him, and
 punish them that detain him, as if the arrested
 Party were a Bishop. And in this Case let the
 Proceedings be according to the Punishments be-
 fore exprels'd, if ther be occasion.

^b I follow Sir *H. S.* in *casu à jure non concessio*, *Oxf.*
nisi in casu à jure permissio. *L.*'s Text is, *nisi in casu à*
judice permissio: nor does it appear how his Text stood
 here when he wrote his Gloss. I suppose the meaning
 is in a Case not allow'd by the temporal Law; as to the
 Preamble of this Constitution, I have chiefly follow'd
 the *Oxford* Copy. It is not in *Lindwood*, and Sir *H. S.*'s
 Copy seems not to be in it's order; yet some words
 in this latter are preferable to those in the other. I
 have not advertis'd my Reader of the Variations, be-
 cause they are of no great Consequence, and do not af-
 fect the Body of the Law.

¹ See Const. of *Otto*, 29.

2. ^k If when a Man has recover'd his right of
 Advowson in the King's Court, the King write
 to the Bishop, or to another that has the right of
 Institution, to admit the Clerk presented by the
 Recoverer,

^k This Chapter is not distinguish'd from the foregoing
 in Sir *H. S.* nor in the *Oxford* Copy; but it is clearly
 upon a new Subject, and *L.* treats of it by it self.

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Recoverer, let him admit him, if the Benefice be vacant, and ther be no canonical Impediment, lest an Injury be done to the Patron. But if the Benefice be not vacant, the Prelate may excuse himself to the King, by answering, that he cannot fulfill the King's Mandate, because the Benefice is not vacant. But the Recoverer may again present him that is in Possession, that so the Right of the recovering Patron may be evident for the future.

3. Farther because Ambition, which lewdly imitates Virtue, esteems nothing unlawful that is profitable, and cares not by what Inventions it satisfies the Thirst of a covetous Mind; while thinking Gain to be Godliness it makes damnable Purchases of Preferment; with the Approbation of the sacred Council ¹ we strictly forbid Clerks of what Condition and Order soever to take Possession of Parochial, or Prebendal Churches with cure of Souls, or other Ecclesiastical Benefices, Dignities, or Parsonages by their own Authority, nor cause themselves to be thrust into them by a Lay Power: And if any one be thrust in without Ecclesiastical Authority by a Lay Power, let him be excommunicated in due form of Law, and so denounc'd by the Diocesan, and be *ipso facto* perpetually deprived of that Benefice. And if he obstinately persist in his Intrusion after such Sentence passed, let the Profits of thoe Benefices, [which he has elsewhere] be wholly withdrawn from him, till he make Satisfaction, by the Dioceans of the Places where they lie, after solemn Notice given by the Bishop, in whole Diocese the Intrusion was made, and whole Monition and Excommunication

¹ Since the other two Copies agree, I suppose that L. alter'd the Series of this Constitution, but not the Sense, excepting that he makes no mention of Clerks seizing Benefices by their own Authority.

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cation be for so long time contemned. And if he, that was so thrust in remain under the Sentence of Excommunication by the space of a year, let him not thenceforth be admitted to any Ecclesiastical Benefice in the Province of *Canterbury*. If another Clerk were so thrust in as his Proctor, let Process be made against the Proctor in the same manner, and let him be liable to the Punishments aforesaid. If the Proctor were a Layman, let him be excommunicated in form of Law, and publickly denounced as such. And let his Principal, if absent, be summon'd, and if he appear, and ratify the Fact of his Proctor as to this Point, let him be liable to the Punishments aforesaid. But if he contumaciously absent himself for three Months, let him be involv'd in a greater Excommunication, and yet incurr the Punishments before provided, since he adds Disobedience and Contempt to his Sacrilege. If he be out of the Kingdom, let him be proceeded against in the like manner, after a Citation, time being allow'd for his being beyond Sea. And let the Church or Prebend, into which the Intrusion was made be put under Ecclesiastical Interdict. Let the Fautors, and Abettors in such an Intrusion, if they are Clerks, incurr the Punishments before provided against Clerks, and if Laymen the Punishments against Laymen. And let the Places and Lands of such Intruders be put under Ecclesiastical Interdict, unless they make Satisfaction within a Month. But if such Intrusions be made by Royal Power, let our Lord the King be monish'd by the Diocesan of the Place to cause them to be revok'd within a competent time; or else let the Lands and Places, which our Lord the King hath within that Diocese, in which the Intrusion was made, be laid under Ecclesiastical Interdict, according to the form above-mention'd: If the Intrusion be made by any other

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great Man, or Potentate, let them be coerced by the Sentences of Interdict, and Excommunication, as above. And if they patiently bear these Sentences pass'd on them on this account for two Months, thenceforth let their Lands and Places which they have in ^m that Diocese be put under Ecclesiastical Interdict by the Diocesan of the Place, and let the aforesaid Sentences not be relaxed, till they make competent Satisfaction for the Injury, Disobedience and Contempt.

^m *In illâ Diœcesi, Sir H. S. and Oxf. In aliâ, L.*

4. Farther it sometimes happens, that Men excommunicate ⁿ at the command of the Prelates, [and] taken up and imprison'd according to the Custom of the Kingdom, are dismiss'd sometimes by the King, at other times by the Sheriff, or other Bailiff without consent of the Prelates (at whose Mandate the Enlargement of such Men ought to be granted) and before Satisfaction is made. And Excommunicates very often are not taken up, and the King's Letters for taking of them up are not granted. Sometimes the said King, Sheriffs, and Bailiffs communicate with such Excommunicates that have been publicly denounc'd, in Contempt of the Keys of the Church, to the subversion of Ecclesiastical Liberty, and to the hazard of their own Souls. Being therefore willing to apply a proper remedy to this Evil, we ordain, that Excommunicates so taken up and so escaping out of Prison, be publicly and solemnly ^o excommunicated, and

ⁿ *L.* so understands these Words, as if the Offender were taken up at the Command or Mandate of the Prelate, but then explains Mandate by *Request*. He seems to me not to have hit upon the true Construction of this Sentence.

^o It was no unusual thing in these Ages frequently to repeat the Publication of the Sentence of Excommunication,

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nication; and the Canon Law allowed, and in some cases requir'd it.

and denounc'd excommunicate in such Places as the Ordinaries shall think fit, with Bells tolling, and Candles lighted, to the greater Confusion of the Enlargers and of the Enlarged. Let the Sheriffs, and Bailiffs who dismiss'd them without Satisfaction to the Church be excommunicated in due course of Law, and so denounc'd: Yet, if they did it with the King's Mandate, let them be more gently treated at the discretion of the Ordinaries. If the customary Writ *de Excommunicato capiendo* be denied, when it is requir'd in a Case where it ought to be granted according to the approved Custom of the Kingdom, let our Lord the King be monish'd by the Prelate, who ^Pwrites for the taking up of [the Excommunicate], that he grant it, and cause it to pass. But if he do it not, let his Cities, Castles, Burroughs, and Vills which he has in the Diocese of him that writes on this Occasion be put under Ecclesiastical Interdict, by the Bishop so writing, till the denied Letters be granted, and have been executed according to Law. Let ^q such as communicate with Excommunicates be proceeded against with the Censures of Ecclesiastical Discipline.

^P That is who certifies the Excommunication to the King, and requests the Copies, and who, if he refuse to certify, may be compelled by the Archbishop, says *L.*

^q Sure they had forgotten that the King was one of those who had offended in this Point, according to the foregoing part of the Constitution.

§. ^r It sometimes happens, that Clerks, without

^r Here *L.* observes, that these Constitutions of Boniface were for the most part neglected, and he says, that he passed over such as were not agreeable to common Law.

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out respect of Persons, without Licence of the Prelates, are seized as Malefactors, or suspected of some Crime, or personal Injury by a Lay Power, and thrust into Goal, and not surrender'd to their Ordinaries upon demand, to be tried freely according to the Canons, although they were not caught in the Fact, nor convicted: And if Clerks who are charged with Crimes do not appear upon a Summons from a secular Judge, they are banished out of the Kingdom: Now because Ecclesiastical Liberty is confounded, when a Clerk is judged by a Layman, we ordain, that if the Clerks so taken be well known, and honest; they who take and detain them, and refuse to surrender them at the demand of their Ordinaries, be publicly denounc'd excommunicate by the Ordinaries of the Place. And let the Places in which they are detain'd, and the Lands of those who take and detain them be put under Ecclesiastical Interdict, till their Bodies are surrender'd, and competent Satisfaction be made. Let such as falsely charge them with Crimes, or maliciously invented Calumnies for which they are seiz'd and unjustly detain'd, be denounc'd *ipso facto* excommunicate, † (as they are by the Council of *Oxford*): let Clerks
who

† *Ipso facto* Excommunications sprung up in this Age. The term is not used in the first Constitution of Archbishop *Langton*, to which *Boniface* here refers; but it seems the general Excommunications publish'd by him were now interpreted as meant *ipso facto*. That which distinguishes this Excommunication from others is, that it is incurred from the Minute that the penal Fact was committed, whereas other Excommunications had no Effect till denounc'd. If indeed the Fact by which a Man excommunicated himself was not known by any but himself, it could not expose him to the external Consequences of a Church Censure, till by his own Confession, or some other means it came to light, and

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till the Sentence had been publish'd against him; yet even in this Case he was supposed to be excommunicated in *foro interno*, from the time of his committing the Offence: And therefore if a Man receiv'd Orders while under such a secret Excommunication, he was irregular, and the Popes Dispensation, or the Bishops at least, was necessary in order to qualify him for the Exercise of his Function; and if he after the Fact committed, and was conscious of his being excommunicated, performed any Action which was inconsistent with the State of an Excommunicate, he was bound to do Penance for it before he could have Absolution.

who are Wanderers, and not known when taken, and detain'd for any Cause, be demanded of the King, or of him who has power to surrender them, (if they retain their ^c Clerkship) by the Ordinaries of the Places, that he may restore them to be freely tried by the Church. And if they be denied, let the Opposers and Detainers be proceeded against by the Punishments abovemention'd. ^u And if the Clerks surrendred to the Church have been amerc'd by the secular Judge for wrong done to any Person, let not the Prelates compel the Clerks to pay the Amercements, since they were not condemn'd by their proper Judges. And if it happen that the Prelates are distrett, or attach'd on this account, let them defend themselves by the Remedies

^c That is, says *L.* if he were apparell'd like a Clerk, and had his Tonsure on the Crown of his Head, and his Hair shorter than the lower part of his Ears; and had not before his being taken into Custody carried himself as a Layman.

^u Here is a Clause in the *Oxford* Copy omitted both by *L.* and *Sir H. S.* whether because it was not genuine, or that it was not very intelligible cannot be certainly said. It supposes the Bishop fined by the secular Judge for not bringing, or sending the Clerk to the secular Court: And adjudges all concern'd in levying the Fine to the Punishments provided against Clerks in the foregoing Constitutions of *Boniface*.

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Remedies before mention'd. Let the same be done as often as Ecclesiastics are amerced by a secular Judge for Matters which belong purely to the Ecclesiastical Court. If the Clerks have purg'd themselves of what was objected against them in a ^x Canonical manner; and yet a Lay-power seizeth and detaineth their Goods; let them who seize, or distrain them be compell'd to Restitution by Ecclesiastical Censure. If the Clerks, when taken have their Tonsure, and Clerkship, but have been maliciously ^y shav'd while they were in Custody, and hanged, or otherwise punish'd, let those who shav'd, or hanged, or otherwise punished them, or gave their advice, or assistance toward it be liable to the Punishments above-mention'd: And let the like Punishments be inflicted on them who banish such Clerks. And if any Clerk defam'd, and lawfully convicted of transgressing the Laws concerning Forests and Parks before his Ordinary, or confessing his Crime to him, let him have a severe Ransom laid upon him in proportion to his Transgression, if he have Goods of his own; and let the Ransom be assign'd to the injur'd Party. If he have not, let the Bishop lay upon him a severe personal Punishment in proportion to the Fault, lest Assurance of impunity render Men presumptuous and licentious in offending.

^x That is by the Oath of a competent number of those of the same, or a higher Order.

^y That is have had all the Hair of their Head shaved off, so that the Tonsure of their Crown cannot be discovered, nor the Canonical cut of their Locks be seen.

6. ^z Whereas some Laymen making mutual Contracts

^z This is not either in Sir *H. S.* nor in *L.* yet it is so much of a piece with the rest of these Constitutions, that I cannot doubt but that 'tis genuine: and I was

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willing to give my Reader *Boniface's* whole Scheme, whereby he hoped to over-power the King, and all his secular Ministers; and which is indeed very singular.

Contracts with Clergymen, and confirming the Contracts by pawning their Faith, and by corporal Oath; and yet being conven'd by the Ecclesiastical Judge for contempt of their Faith, and Oath, obtain the King's Prohibition, that so they may decline the enquiry of the Ecclesiastical Judge for Perjury and breach of Faith: We provide, that if Laymen be the Obtainers they be coerced with an Excommunication (as is above said): And if they do not desist, and have an Estate in Immoveables, let their Lands be laid under Interdict: If they have not, let their ^a Servants, that are not Slaves, be admonish'd to leave them within eight Days; or else let the same Sentence of greater Excommunication be pass'd on them. If a Clerk, or religious Man be guilty, let Canonical Punishments be inflicted on them: If the Clerk persist, let him be proceeded against with the Punishments above-mention'd for pertinacious Clerks. ^b If a Layman be Plaintiff, let him not be admitted, except he have a Lay-fee. If the Bishop be distressed, let our Lord the King, and the Distressor be proceeded against as above is express'd. Let the same be observ'd in the like Prohibitions. Let the same be observ'd,

^a *Mercenarii, non vacatae personae.* Slaves are not by any Civil Law own'd to be Persons: For they have no Rights, and cannot sue, or do any action in their own Names, therefore they are Persons vacated, or annull'd.

^b The foregoing Clause of the Canon supposes the Plaintiff to be a Clergyman: Here the Layman is supposed to be Plaintiff, but is denied that Privilege, unless he be a lauded Man. For *Boniface* would not allow any worthless Person to charge a Man in Holy Orders with breach of Faith or Oath.

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observ'd, if a third Party ^c by way of traverse come and offer the Prohibition, or cause it to be offer'd; if he, in whose behalf it was evidently obtain'd, do stand by it either in Word or Deed.

^c Lat. *Ex traverso*. Whatever the Defendent does, or says in order to evade an Indictment brought against him, may be said to be done *by way of traverse*.

7. ^d Because Ecclesiastical Judicature is likewise ^e confounded, and the Office of Prelates obstructed, when a *Jew* offending against Ecclesiastical things and Persons is convicted of these, or other Matters which belong to the Ecclesiastical Court by pure right, and yet is not permitted by the King, Sheriffs, or Bailiffs to stand to the Ecclesiastical Law; but is rather forc'd to betake himself to the [Kings] Court. Now we ordain, that such *Jews* be driven to make answer in such Cases before a Judge Ecclesiastical by being forbidden to traffic, contract, or converse with the Faithful: And that they who forbid, and obstruct them, and that distrefs Judges, and others on this account be coerc'd by the Sentences of Excommunication and Interdict.

^d In translating this Constitution, I principally follow Sir *H. S's* Copy; *L.* omits it.

^e Ecclesiastical Authority was certainly confounded by these Prelates going beyond their Line, and assuming to themselves a Power of *judging them that were without*. See *Law penult.* of *K. Edw. Conf.*

8. ^f Whereas such as betake themselves to the Privilege of the Church can sometimes scarce be provided of Victuals by reason of the strait Custody under which they are put, and that they are often

^f For the understanding this, and other Constitutions concerning Sanctuaries, 'tis necessary to advertise my
N 4 Readers

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Readers that the Clergy of the Church, to which the Criminal fled were bound to provide Viſuals for him while in Sanctuary: That the Criminal, while in Sanctuary, had liberty of going thirty Paces from the Church, and forty if it were a Cathedral: That tho' the Criminal by taking Sanctuary ſecured Life and Limb, yet he was not ſecur'd from pecuniary Satisfaction; much leſs from Penance, nor from paying his Debts; that for greater Crimes, all but Clerks, were here in *England* bound to ſwear that they would leave the Kingdom, and not return without Royal Licence. After taking this Oath they were to take the direct Road to the next Port, and embark by the next Opportunity: While they were in that Road they were deem'd to be in Sanctuary.

often dragg'd from the Churches, Church-yards, or public Roads by violence, after they have forſworn their Country, and being dragg'd from thence are ſlain in a cruel manner to the prejudice of the Immunities of the Church: We ordain, that they who hinder the bringing of Viſuals to ſuch Refugees whom the Church is bound to defend, be chaſtiſed with Eccleſiaſtical Censure at Diſcretion of the Ordinaries. We decree, that they who drag them from any place that enjoys Eccleſiaſtical Immunity, or that raſhly kill them, after they have forſworn their Country (ſince they are there under the Protection of the Church) be & puniſh'd with all the Punishments due to Sacrilege: One Punishment not annulling the reſt. Let
no

& He who committed Sacrilege on an Eccleſiaſtical Perſon was *ipſo facto* excommunicate; he who is guilty of it in relation to Eccleſiaſtical things is to be excommunicated, ſays *L.* But if he who ſteals an Eccleſiaſtical thing, does at the ſame time burn the Church, or break it open, then he is *ipſo facto* excommunicated. Where the difference of Excommunication *ipſo facto*, and of Excommunication to be paſſ'd after the Fact is very apparent: By the Civil Law, as *L.* obſerves, the ſacrilegious were in ſome Caſes condemned to wild Beaſts, in others burnt alive, hanged, and ſometimes condemned to the Quarries, or baniſh'd.

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no Guards be set by a Lay-power in the Church, or Church-yard, against them that flee to the Church. Let those who presume either to be of those Guards, or to set them there be coerced by a Sentence of Excommunication in form of Law. But let the Church protect ^h those only, whom the Canons direct to be protected.

^h Public Robbers, and Depopulators of the Country only were excepted by Canon Law (*Decretal. L. 3. Tit. 49. c. 6.*) and, says *L.* such as refused to pay their Tribute. And none but Catholics were capable of this Privilege in any Case; nor a Catholic, if his Crime was committed in the Church.

9. That a remedy may be found against such as infringe, or disturb the Liberties of the Church, or invade Ecclesiastical Goods, we think fit to ordain, that such Malefactors be denounc'd guilty of Sacrilege, ⁱ and Excommunicate, by the Ordinaries of the Places: And if they remain pertinacious in their Malice for one Month, then let their Lands, and the Places where they dwell be laid under Ecclesiastical Interdict: And let neither Sentence be relaxed, till they have made competent Satisfaction for their Damages and Injuries. And if any regardless of the divine Honour deprive the Church of her Possessions, or Liberties, let them be liable to the aforesaid Penalties: And let the Sentence of Excommunication, in form of Law, be solemnly pass'd against them, till full Restoration and Satisfaction be made. And if these sacrilegious cause the Judges, or Prelates to be attach'd or distress'd on this account, let them, and the Attachers be smitten with the Punishments declar'd against such Attachers and Distressors.

10. ^k Far-

ⁱ In this case *L.* owns the Criminals were not *ipso facto* excommunicate, but were to be admonish'd before Sentence was pronounc'd.

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10. ^k Farther, whereas the Houses of Clergymen, tho' within Sanctuary are seiz'd by great Men of the Land, against their own Will, who after having driven out the Servants, sacrilegiously consume their Goods, and reproach, and beat those that oppose them; ^l and sometimes the Horses of Prelates, Religious, and Clergymen are seiz'd on the Road, and within Sanctuary, and are taken away by violence, to carry the Goods, Merchandizes, and Victuals of great Men; we provide that all such sacrilegious be excommunicate in form of Law, and solemnly denounc'd excommunicate, till they restore what has been taken away, and make competent Satisfaction for the wrong done. Clergymen and Religious are also compell'd by right or wrong to sell what they have to be sold at the price of our Lord the King to the King, and his Officers; and sometimes to deliver the Goods without pay: Whereupon we provide, that they who do this be oblig'd by the Sentence of Excommunication to make up the defects of Payment, or to relinquish the Goods so taken by force, and yet to make competent Satisfaction for the Sacrilege committed.

^k I find this in the *Oxford* Copy only.

^l Ther are several words in the *Latin* Clause here, that are to me unintelligible, and some of them certainly miswritten, or erroneously printed; but the omitting of them does not greatly affect the Sense, so far as I can judge.

11. Whereas according to the ^m Charter of Privileges granted to the Church by our Lord the King, and his Predecessors only ⁿ reasonable Profits,

^m This is meant of the fifth Article of *Magna Charta*.

ⁿ That is such Profits as may be made without impairing the Substance, or main Stock, says *L.*

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fits, and Services, without waft of ° the Men, and Goods be taken, while the Cathedral or Conventual Churches are under the Guardianship of our Lord the King: And yet his Bailiffs do violently take away the Goods of the vacant Churches Tenants, and destroy the Parks, Groves, and Fishponds, ruin the Houses, abuse the Poor; and not only lay their Hands upon what by Custom they used to have, but on that which belongs to the P living, as the Corn, live-Stock, and other things, by which the Chapters, and Convents should be maintain'd, and on other things which cannot belong to the King on account of the ¶ Barony, as Tithes, Offerings and the like belonging to the Churches appropriated to the Bishopricks, or Monasteries: To obviate this Evil, we ordain, that when the Escheators, and Bailiffs enter upon the Estates under the Guardianship of the King, the † Prelates, who have the Jurisdiction, do forthwith publickly and solemnly forbid all the Bailiffs in general to make any such Attempts: If they transgress, let them declare them to have incurr'd the Sentence of Excommunication ‡ before pass'd on the Violators and Disturbers of Ecclesiastical Liberty,

° The Tenants, says L. I rather think the Slaves, or rather the *Glebae ascriptitij*.

¶ By the *Living* is certainly meant the Religious, or Monks in the vacancy of their Abbies. The Estate of the Bishop, and of the Dean, or Prior, and Chapter were now divided.

¶ King *William I.* turning Bishopricks into Baronies to be holden of him brought this inconvenience upon the Church, that the King was Guardian of the Temporalities during vacancy, as he was of all Lands held of him in *Capite*, during the minority of the Heir. But the Lairy have disburden'd their Estates of this Incumbrance.

† That is, I conceive the Guardians of the Spiritualities.

‡ That is *ipso facto*.

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Liberty, till competent Satisfaction be made for the Damages and Injuries: Which Sentence if they contemn after it is denounc'd, let them be proceeded against by Interdicts, and other Punishments ordain'd against such wrong Doers. And if our Lord the King upon a Monition, do not make, or cause to be made competent Restitution for the Damages done by his Officers, let him be proceeded against as hath been ordain'd in other Cases touching the King. And our will is, that what has been above ordain'd concerning the King, and his Officers, be observ'd in relation to inferior Lords, if such Guardianship belong to them.

12. Let the Archbishop, and Bishops summon'd before Justices *Itinerant* on account of their Ecclesiastical Estates be allow'd to appear by their Attorneys, or Proctors constituted by Letters according to the Liberties and Customs of the Church. Our Lord the King hath been petition'd, that he would allow their Attorneys, and Proctors to be accepted, and that the Justices be admonish'd accordingly to accept them: If they do not, but a Prelate be condemn'd, and distrest, because he did not come in Person; we provide that the Attachers and Distressors be proceeded against, as is above exprest. Farther, because Prelates and Clergymen are forc'd to come before secular Magistrates to shew by what Right or Warrant they use the Liberties, which they and their Predecessors have a long time peaceably injoy'd in the Name of their Churches; or else they are obstructed in the Liberties aforesaid: We ordain, that they who are so summon'd make no Answer, or Allegation, but only length of Possession. And if they call it in question, let them not put themselves upon a Trial by Laymen: And if they are therefore spoil'd, distrest, attach'd, or otherwise condemn'd, let the Spoilers, Attachers, and our Lord

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the King be proceeded against as is above specified. And if a Prelate be kept in Custody, let the Archbishop with the Bishops demand him, and punish the Detainers, and if he be not freely dismiss'd, let them proceed to Interdicts, as above.

13. Tho' our Lord the King, great Men, and other of the Faithful have given Lands to Churches, and Ecclesiastical Men to be held in *Frankalmoin*; yet they and their Bailiffs compel Ecclesiastical Persons to do Suit and Service for the said Lands to their Lay Court, contrary to the form of Donation, to the Offices of Piety, and the Rights of Churches; giving them Disturbance in relation to their Effects, which they have had for times long past, unless they can make proof before them of the original Grants and Charters, which are perhaps lost, or consum'd thro' length of time. We ordain therefore, that if Distrels be made for such Suits, or Services by the Donors, Founders, Heirs or other Successors, they be repress'd by the Censures aforesaid. Let the Justices, and other Judges of Court, who commit Frauds in relation to the Liberties of Bishops; and inferior Prelates, against the Charter of Liberties of our Lord the King, be smartly punish'd as Transgressors of the said Charter.

^c Latin, *Convertunt amiciaimenta per fraudem.* This is only in the *Oxford* Copy.

14. ^u Sometimes Princes and other faithful Men do by their Charters give Possessions and Liberties to Churches, or Prelates, in which this or the like Clause is contain'd, "All of such a Fee, or
"Estate, which belongs, or may belong to me, or
"my Heirs without any Exception, I give and
"grant,

^u This too, as also the two following Constitutions are omitted by *L.*

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“ grant, and by this Charter confirm to such a Church, or Monastery, or to the Prelates, and Officers thereof.” And if afterwards * a Dispute arise in the said secular [Court] concerning any particular Article of the Purtenances, not expressly mention'd in the Charter, the secular Judges affirm, that the Charter is void and null, because that Article is not express'd in it: And so the word *All* according to them signifies *nothing*, but what is particularly express'd: And if the Article of Liberty contain'd in the Charter be express'd by special Words, the same Judges affirm, that it is void and null, if the Church or Monastery hath not used that Liberty. Now we provide, that Justices, or other secular Judges who defraud Churches, or Religious Places of their Possessions, or Liberties by such perverse Interpretation be monish'd by the Ordinaries of the Places in which they hold such Courts, that they presume not to disturb, or purloin the Possessions, Liberties, or Rights of the Church under colour of such Interpretation. And if they do not acquiesce upon such Monitions, let the Iniquity of such Justices and Judges, whether they are of the Clergy, or of the Laity, be crush'd by the Sentences of Excommunication and Interdict, according to the Form above describ'd.

* I read *contentio*, not *contento*, as it is in the *Oxford* Copy; and here I have none but that.

15. Because when Laymen y die Intestate, the Lords of the Fees do not permit their Debts to be paid out of their Moveables, nor to be distributed piously for the benefit of the deceased, nor for the use of their Children, or Parents, according

y Sir H. S. here adds the word *Divino*, and *judicio*, ought to have been put as the Substantive to it. So *Stratford*, 1343. 7. in Latin.

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ing to the disposition of the Ordinaries; we provide that the said Lords, and their Bailiffs be carefully monish'd to desist from such Attempts, and if they do not obey, let them be restrain'd by the Sentence of Excommunication, at least as to that Portion, which it ^z concerns the deceased to have distributed for pious uses freely by the Ordinaries of the Places. Let them be proceeded against in the same manner who obstruct the Testaments of such as are Tenants in Villainage, and others of a servile Condition, contrary to the approv'd Custom of the Church of *England*. We will that the aforesaid Provisions be extended to all Persons, both Ecclesiastical and Secular that have Royalties which they have hitherto used. We ordain and charge, that no Executor be allow'd to administer the Goods of the deceased, till he hath first exhibited a faithful Inventory of them all to the Ordinary of the Place. And when the Will has been prov'd before the Ordinaries, let not the Execution, or Administration of the Goods be allowed to any, but such as may render a proper account of their Administration when requir'd by the Ordinaries of the Places. ^a And we ordain by the Authority of this Council, that no Religious of what Profession soever be Executors of Testaments, unless it be done by the Licence and Will of the Ordinary. And that when Testaments have been prov'd before the Ordinaries, no proving of the same Wills be farther demanded by any Layman. Let none hinder, or cause any hindrance to

^z For the usual number of Masses, and other Devotions for their Souls, and in Alms to the Poor. This was usually a third Part.

^a *L.* calls this, that here follows a Constitution of *Boniface*, and tells us it is contain'd in the 20th of *Peckham*, for which reason he did not write a particular Gloss on it. Edit. *Oxf.* pag. 167.

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to the performance of the Wills of the deceased, as to what is capable of being bequeath'd by Law, or Custom. Let them who presume to oppose this Statute know that they are under a Sentence of Excommunication by Authority of the present Council. And let them be proceeded against as the Violators of Liberties by Ecclesiastical Censure. We also ordain, that no Man hinder any single Woman, or Wife, whether his own, or anothers, or occasion any hindrance to her in the just, customary, and free making of her Will. Let him that does so know that he has incurr'd the Sentence of Excommunication. And we ordain, that the Church have her right out of the Estate of the deceas'd; after what is due to the Lord as a Debt, or Gift, and the Funeral Expences are deducted. We also ordain, that no Executor withdraw any of the Goods of the deceas'd, whose Testament he executes, under pretence of having bought it; unless it were given him by the Testator yet living, or bequeath'd by Testament.

16. ^b Whereas false Suggestions are often made to the King, and his Justices, that Prelates and Ecclesiastical Judges take cognisance of the Right of Advowson, Chattels, and other things belonging to the King's Court, to the prejudice of our Lord the King; when the Prelates and Judges are exercising their Office in relation to Tithes, and the Sins, and Excesses of their Subjects, as it concerns them to do: Therefore let these wicked Suggestors be admonish'd to desist; but if the Prelates, or Judges are damnify'd, or molested on this account; let such Suggestors and Dilators, who are hateful to God, and murderers of their Brethren

^b Hitherto I have follow'd the Series of the *Oxford*. In the following I have taken Chance for my guide, for I saw no room for Choice. For farther light into this Constitution, see the 7th of *Strasford*.

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thence be publickly denounc'd excommunicate, as Violators and Impugners of Christian Unity and Ecclesiastical Peace and Liberty, till they have made competent Satisfaction for the Expences, Damages and Injuries both to the Judges and the Parties.

17. Sometimes when Ecclesiastical Prelates do as they ought by their Office inquire into the Manners, Sins, and Excesses of their Subjects, our Lord the King, and other great Men, secular Powers, and Soldiers obstruct their Proceedings by forbidding Laymen to take an Oath for speaking the Truth at the command of their Fathers, and Spiritual Prelates, to whom they ought to disclose their Wounds that they may be cur'd: And sometimes they do not permit the said Prelates to impose corporal, or pecuniary Punishment on their Subjects for their Faults and Excesses in cases Ecclesiastical, according to the Canonical Sanctions, in proportion to the Crimes of the Offenders. But because by the Law of Heaven as well as of [our] Court, Punishments, and Rewards are propos'd for the restraint of sinful Appetites, and Men would run into Wickedness without any check, if Punishment did not curb Transgressors, and wicked Inclinations would get strength, as inward Enemies; we therefore ordain, that Laymen be compell'd, particularly by the Sentence of Excommunication to take such Oath, and to perform such Penalties, whether corporal or pecuniary as are canonically inflicted on them by their Prelates; and that they who hinder them from taking such Oaths, and performing such Penalties be coerc'd by the Sentences of Interdict and Excommunication. And if Distresses are made on Prelates upon this account, let the Distressors be proceeded against by the Punishments before prescrib'd.

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18. Since the Sacrament of Confession, and Penance, is like a Plank offer'd us after Shipwreck, and the last Refuge to them that are passing the Waves of this troublesom World, necessary for the Salvation of every Sinner: we strictly forbid under pain of Excommunication to hinder any one that desires it from having this Sacrament freely administer'd to him, or from having sufficient time for making his Confession: And we do especially urge this for the sake of Prisoners, who are often inhumanly and unchristianly deny'd it. And if time for this be sometimes granted them, 'tis so short, and so unseasonable, that it turns rather to the discomfort and despair of these wretched Men, than to their spiritual Joy.

19. Desiring to apply a remedy against those Grievances and Excesses which the Beadles, and Apparitors of Archdeacons, and Deans occasion to our Subjects; we ordain, that when they in order to execute, or do any thing necessary, come to the Houses of Rectors, Vicars, Chaplains, or any other Priests, Clerks, or Religious, they demand nothing of them by way of Procuration or Duty, but that accepting what is set before them by their Hosts with thanks, they be content with it: And that they do not execute their Precepts by Messengers, and Sub-beadles, but in their own Persons. Let them not themselves pass Sentences of Excommunication, Interdict, or Suspension; nor denounce Sentences pass'd before by others, without the special Letters of their Principals. If they do, let not the Sentences so pass'd hold in Law, nor be taken notice of: For they are not binding. And let the Beadles, who act contrary to this Statute, and are burdensom, or injurious to the Subjects of their Principals be severely punished, and be bound to make double Restitution to those whom they have agriev'd.

20. *c* We

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20. ^c We ordain, that Bishops in their Synods, and other Convocations, and Archdeacons in their Chapters, [^d Rectors, Vicars], and Chaplains of Parochial Churches, in their Churches do thrice every Year denounce to all who would enjoy ^e Clerical Privilege, that they must be decently clipt, and have a shaven Crown, especially before their Ordinaries, and in Churches, and Assemblies of Clergymen. And let them not be ashamed to bear the Marks of him, who wore a Crown of Thorns for them, being obedient to his Father even unto death, that he might make them partakers of his Resurrection, and of the Inheritance purchas'd by his Blood. They who transgress against this Denunciation are with Menaces to be told, that they who are ashamed to have *Christ's* Sign on their Forehead may implore his Help to no purpose; for he who abuses his Dignity ought to lose the privilege belonging to it.

^c This *L.* calls the 25th; he divided the 5th Constitution into four, and the 15th into two at least; and Sir *H. S's* Copy makes three of the 15th. Let my Reader judge for himself. The Table before *L. Provincials* makes but 21.

^d These two Words are not in *L's*, yet in both the other Copies. *L.* here says that Rectors must be *Chaplains* within the year, for this he refers to *Text. L. 1. Tit. 6. c. 14.* which obliges the Rector to take Priest's Orders within a year from his Institution (tho' sometimes it was allow'd by the Canon that one might be Rector at fourteen) therefore it is evident, that by Chaplain *L.* meant Curate, or one that was capable of officiating as Curate by having receiv'd Priest's Orders.

^e These were not to be tried by Laymen, to sue Laymen before Ecclesiastical Judges, that Laymen keeping them under Custody, tho' without hurt, incur Excommunication; and in short, that their Persons were not to be molested, nor any Exactions made on their Estates, *L.*

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21. We do, with a special Injunction ordain, that every Bishop have one or two ^f Prisons in his Bishoprick (he is to take care of the sufficient largeness and security thereof) for the safe keeping of Clerks according to canonical Censure, that are flagitious, that is, caught in a Crime, or convicted of it. And if any Clerk be so incorrigibly wicked, that he must have suffer'd capital Punishment, if he had been a Layman, we adjudge such an one to perpetual Imprisonment: But we decree that the ^g ancient Laws be observ'd in relation to those, who transgress not wilfully, or of set purpose, but by chance, thro' Anger, or Madness.

^f This is allow'd by a forged Decretal Letter, *Canf. 17. Quæst. 4. c. attendendum. P. Honorius 3. ann. 1224. Decretal. L. 5. Tit. 9. c. 5.* does expressly require it in some cases. But *L.* here supposes, that in some cases the Clerk convict was deposed, and delivered to the secular Judge to be punish'd as a Layman. Yet he seems to speak as if he thought it at the Ordinaries discretion, whether he would deliver him to the secular Arm, or keep him in perpetual Custody. *L.* farther puts the Question, whether a Layman might be imprison'd by the Bishop: And answers, tho' not without some hesitation, that it might be done for Heresy only. And might then be done for Heresy by a Statute of K. Henry 4th.

^g Of hard Penance, I suppose.

The abovesaid Statutes are extended both to present and future Grievances ^h, especially because the Sentences of Excommunication have been publish'd with Solemnity against the Transgressors of the Charter of Liberties with consent of the King, and great Men of the Kingdom by the Prelates at *London*.

^h This, and the following Paragraph to *Done in a Conc.* &c. are in the *Oxford* Copy only, and Sir H. S's Copy only has the Close, and Date.

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ⁱ The Archbishops, and Bishops with the consent and approbation of the inferior Prelates, and Chapters of Cathedral and Conventual Churches, and the whole Body of the Clergy of *England* did unanimously ordain the above-written for the Reformation of the Ecclesiastical State of *England*, and the Reparation of Liberty, retaining to themselves a Power of adding, changing, and correcting as they shall think fit. Done in a Council at *Lambeth*, and recited in the last Action of the Council, on *Friday*, 3^d of the Ides of *May*, B the Dominical Letter, *A. D.* 1261. in the seventh Year of Pope *Alexander* 4. In witness whereof, &c.

ⁱ I do not observe that this Passage was cited in the late Dispute concerning the antiquity of the Rights of the lower Clergy to sit and debate in Convocation. Yet it seems very much to the purpose. I know some have very much degraded this *Oxford* Copy of the Provincials, with how much reason, I leave to others to judge.

A Constitution attributed to Boniface, tho' L. says, that some have thought it Robert Winchelsey's.

22. ^k We have often heard from our Ancestors, that

^k *L.* doubts whether this be *Boniface's*, or *W. Reymold's*. Sir *H. S.* has it not. The *Oxford* places it as here. It is the only Provincial Constitution which I find to this purpose. But *Giles Bridport*, Bishop of *Sarum*, in his Diocesan Synod ordain'd, That Rectors, or Vicars shall give the Benefice of the Holy Water to a poor Clerk that is a Scholar, on Condition that he attended the Church on all solemn Days. This was *A. D.* 1256. See Sir *H. S.* p. 304. *Walter de Cantelup* had done the same for his Diocese, *A. D.* 1240. *Alexander of Coventry* had done this earlier yet, viz. *A. D.* 1237. See Sir *H. S.* p. 209. But the Decree of *Peter Quevil*, Bishop of *Excester*, *A. D.* 1287. Sir *H. S.* p. 375. is so like to this of *Boniface*, that it is evident, that he who drew one

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had the other lying before him; therefore either *Peter* had it transcrib'd from *Boniface*; or else *Walter Reynolds*, if he made it first a Provincial Constitution, took it from the Diocesan Constitutions of *Peter*, but the first to me seems most probable. *William Courtney*, Archbishop of *Canterbury*, 1393. in a Diocesan Rescript, threatens some that lived near that City with the greater Excommunication, and Interdict, in case they persisted to refuse to have the Holy Water brought to them, and to pay the Clerks for bringing it, which he calls a laudable Custom prevailing throughout *England*.

that the ¹ Benefices of the Holy Water were from the beginning instituted with a view of Charity, that poor Clerks in the Schools might be maintain'd with the Profits thereof, till they by improvement were qualified for something greater. And lest a wholesom Institute by time run into abuse, we ordain, that in Churches which are not above ten Miles distant from the Schools which belong to the Cities, and Castles within the Province of *Canterbury*, be conferr'd on poor ^m Clerks. And because disputes, which we ought to remove, do often arise between Rectors, and Vicars of Churches, and their Parishioners about conferring such Benefices; now we ordain, that the Rectors, and Vicars who are more concern'd to know who are fittest for such Benefices, do take care to place such Clerks in the Benefices aforesaid, who are best capable of serving them according to their own desires in divine Offices, and will be pliant to their Commands. And if the Parishioners will withdraw their accustom'd Alms from them in a malicious manner, let them be carefully monish'd to give them; and if ther be a necessity, let

¹ *Benefice* largely taken includes all Payments and Portions belonging to the Clerks, and Ministers of the Church, *without Title*, says *L.*

^m *To Scholars only*, says *Peter Quevil*, more exactly than *Boniface*.

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let them be strictly compell'd to it [ⁿ by Ecclesiastical Censure of all sorts.]

ⁿ These words are not in *P. Q.* and indeed nothing could be more unreasonable than to pass all manner of Censures on Men for not giving accustom'd Alms; and scarce any thing more unreasonable could be devised by the Art, or blind Fury of Men, than most of these Constitutions of *Boniface*.

A. D. MCCLXVIII.

Legatin Constitutions of Othobon.

AN *English* Council celebrated by the Lord *Lat.*
^o *Othobon*, Cardinal Deacon of St. *Adrian*,
Legate of the Apostolical See to the Kingdom of
England, as also to *Scotland*, *Ireland*, and *Wales*,
in the Cathedral Church of St. *Paul*, *London*, on
the 9th of the Kal. of *May*, *A. D.* 1268, and the
4th of the Pontificate of Pope *Clement* fourth,
that is in the fifty second year of the illustrious
Henry III. King of the *English*, *Boniface*, and
Walter Archbishops of *Canterbury* and *York*, the
Bishops, Abbots, Priors, Deans, Archdeacons, and
other Dignitaries of the Church being present.

The

^o He had formerly been Archdeacon of *Canterbury*,
and was afterwards chosen Pope, and call'd himself
Adrian 5th, but he sate in the Chair scarce forty Days.
His coming hither was for very good cause much resented
by all degrees of Churchmen, as for other reasons, so especially
because according to the practice of the *Roman*
Court (which is to be very free of that which was none
of their own) he by the Pope's Authority granted to the
King three Years Tenths of the Clergy. The King at
the end of that Term complain'd that they had not been
fully and entirely paid, therefore demands the Tenths of

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the fourth Year, to which tho' the Bishops consented, yet the inferior Prelates and Clergy return'd a flat and obstinate denial; and represented the Extortions made upon them in the three former Years as altogether intolerable, and their own Poverty as so great, that they were utterly unable to pay it.

The Commands and Law of the most High were publish'd of old, that the Creature who had broken the Yoke by departing from the peace of his God, by continuing in the observance of the Law and Commandments, as their Light might expect the King of Peace, the Mediator, the High-Priest, who made all things new, having the Hope of the Promises given to the Fathers as a refreshing Shade. This is the Glory of the adopted Sons of the Holy Spouse, our Mother Church, that they hear from her the Commandments of Life; preserving their Heart in the beauty of Peace, the brightness of Chastity under the restraint of Modesty, subduing the sinful Appetite to the government of Reason: To which end the Decrees divinely promulg'd by the Mouths of the Fathers containing Rules of Justice, and Maxims of Equity have diffused themselves like Rivers far and near. And the sacred Constitutions of the chief Pontifs, and of the Legates of the Apostolical See, and of other Prelates of the Church dispers'd throughout the World proceed like smaller Streams from those broad Rivers, according to the diversity of times, which necessarily requires new Remedies for such new Diseases as are bred by human Frailty. But unbribled Desire being rooted in our first Parents has poison'd their Posterity, and running blindly on treads in pieces the Rod of Virtue and Discipline, and as it were mad drunk invades the Properties of others; so that it can't abstain from what is forbidden, nor enjoy what is permitted, nor approve what is good.

When

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When we consider the ancient Mischiefs of this Plague, we cannot but more bitterly lament the present Ulcers of it, which we not only have heard of, but which we see and feel: For the present times are not more sunk below those of old in length of Life, than in Hardiness, and a damnable contempt of Judgments. When the Path of Right is forsaken, or perverted, Truth gives place to Power, Favour leaves no room for Justice; and whilst all seek what they think their own, the things of *Christ*, the good of Souls, the honour of the Church are not only clouded, but do wholly disappear thro' the Darkness of a contemptuous Ignorance. We therefore being destin'd from the Bosom of Holy Mother Church by the Hand of the most holy Father our Lord *Clement*, chief Pontif of the universal Church to the Office of a plenary Legateship [that is the care of planting, pulling down, and building up, which we have undertaken, not out of a willing Inclination, but out of a dutiful Obedience] into the famous Kingdom of *England* (which hath fallen of late Years from the height of Glory into an Extinction of both Powers) as also to *Scotland*, *Ireland*, and *Wales*, that we may fulfil our Ministry according to the Doctrine of the Apostle, as also [according] to the Institutes of the sacred Canons (which are imitated by secular Princes in their Laws) as also [according to] the Constitutions of *Otho* of good Memory, Bishop of *Porto*, then Deacon Cardinal of St. *Nicolas* in *Carcere Tulliano*, and likewise [according to] the Provisions of Provincial Councils, which give wholesom Regulations to the Manners and Actions of faithful Subjects^p. ---Because we have found some of these observ'd

^p The Sense seems imperfect, tho' I have made some Supplements of my own, and here follow'd either Copy, as I saw occasion.

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observ'd by few, [[¶] some by none] we have thought fit with the approbation of the present Council to make certain Constitutions to be generally serv'd in an holy manner well pleasing to God and to add certain *Capitula*, and Punishments those formerly publish'd, which may by the divine Assistance produce a wholesome Reformation

¶ This is only in Sir H. S.

1. Baptism is known to be the first Plank, brings those that fall thro' this dangerous to the Port of Salvation; which our Saviour instituted as a Gate to the other Sacraments, Authority of the holy Fathers, which Christ himself does testify: Since then an Error in entrance by the Gate is most dangerous, the gate aforesaid to recall some from their Idolatry, who suspected danger to their Conscience if they were baptized on the Days assign'd for the solemn Celebration of Baptism, viz. the day before the Resurrection of our Lord, and Christ hath ordain'd, that the People should be brought off from this Error by frequent preaching, and be persuaded to solemnize Baptism to have their Children baptized on the day aforesaid. And (since no one ought to receive of this Sacrament) that it be not received at other times by any one in case of necessity and being so administered in the form the Church is effectual to Salvation. And the simplicity of many would make them negligent of administering Baptism in case of necessity if they were instructed by the Ministers of Christian Faith, we find it ordain'd by the Council aforesaid, that Parish Priests having perceived the form of Baptism do frequently

¶ See the third Constitution of Otto, 12

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in the Mother-tongue on the Lord's-days, that, if a case of necessity do happen, in which it is necessary that they baptize, they may know and observe that [Form]. We therefore extend what is said in that Statute of Parish Priests to ' perpetual Vicars of Churches, and injoin it to be observ'd by them. And because it is certain that this [Sacrament] cannot be neglected, or omitted without hazard of Salvation, we farther ordain, and strictly charge every Archdeacon in Virtue of his holy Obedience, to make strict Inquisition throughout his Archdeaconry against those Priests and Vicars, by severely punishing those whom he shall discover to have neglected this wholesom Statute, according as the case requires.

' It is not easy to say, why Rectors should not be mention'd, unless it may be supposed, that this was a Business below them. See *Corb.* 5. 1127. But Legates spake the Language of *Italy*, not of *England*, as *J. A.* notes on Constitution, *Otto* 3^d, 1238. Therefore by Parish Priests they might mean Rectors.

2. Because blind Desire runs so ' headlong, that not content with the gain arising from earthly Works, it profanely sets to sale the divine Sacraments, which surpals all Price; the aforesaid " Legate ordain'd and injoin'd the consecrated Oil, and Chrism freely and devoutly to be minister'd without any spice of Covetousness, by the Ministers of the Church, without making any difficulty on pretence of any custom of a payment to be made on this account; we therefore by way of addition to the said Constitution do ordain, that Bishops as well as Archdeacons make diligent enquiry in the places of their Jurisdiction, against them that receive [such payments] and punish whom they

' Sir *H. S.* has in *Prelatos* for *in preceps*.

" See the second Constitution of *Otto*, 1238.

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they discover as * Simoniacs, according to Canonical Sanctions. And if the Bishop neglect to fulfil this, let him be suspended from wearing his Pontificals; if the Archdeacon, let him be suspended from his Office till they have made fitting Satisfaction. And we charge that this be observ'd against them, who before they admit any to Penance, extort somewhat from them; and who confer any Sacraments by the intervention of Money. Let all who hear Confessions expressly absolve their Penitents, by pronouncing the under-written Words, *⁊ By the Authority of which I am possess'd, I absolve thee from thy Sins.* And because he who confesseth ought in that action to express signs of Humility and Contrition, we charge, that all who hear Confessions prevail with their Penitents to confess their Sins to the Priest with [⁊] reverence and humility. Farther, because the Slaughter of an immortal Soul is much greater than that of the short-liv'd Body, let no Man deprive him, that asks it, of the Grace of Confession; and since we hear that this is sometimes done by Goalers to their miserable Captives, we ordain, that if any one for the future hinder a Prisoner, or any other, when he is going to die, as a punishment for his grievous Crimes, from the Grace of Confession, let him be depriv'd of Ecclesiastical Sepulture, unless he make Satisfaction, during Life, at the discretion of his Prelate.

* Therefore by Deprivation of their Benefice.

⁊ This is an addition to *Otto's* Constitution, and therefore perfectly new. If this indicative Form of Absolution had been used before, ther had been no occasion of specially injoining it now.

[⁊] That is, says *J. A.* he must doff his Cap, and be in a bending Posture, if he do not kneel down. This has long since, I suppose, been turn'd into kneeling.

3. The

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3. The Church of God not differing as to its Materials from private Houses, by the invisible Mystery of Dedication is made the Temple of the Lord, to implore the Expiation of Sins, and the Divine Mercy; ^a that ther may be in it a Table, at which the living Bread which came down from Heaven is eaten by way of Intercession for the quick and dead. That therefore so wholesom a Mystery might not be despised we find it providently ordain'd by the said ^b Legate, that all Cathedral Conventual and Parochial Churches be consecrated to the Diocefans to whom they belong, or by others authoriz'd by them within two years from the time of their being finish'd: And if they were not, the said Legate ordain'd, that they should be interdicted from solemnizing of Mass, until they were so consecrated; strictly forbidding Abbots, or Rectors of Churches to pull down ancient consecrated Churches under pretence of raising a more fair and ample Fabrick, without consent, and licence of the Bishop of the Diocese: And let him diligently consider, whether it is best to grant, or deny such Licence. We therefore knowing this wholesom Statute to be contemn'd by very many, do farther ordain, that the Rector, Governor, or Vicar of an unconsecrated Church, within a year after it is built (if it may conveniently be) do request the proper Bishop to consecrate the Church; or else let him require the Archdeacon, that he would

^a That Temples, or Christian Churches were built principally for the Celebration of the Eucharist ther can be no doubt among Men of Knowledge; but that the Eucharist was eaten for the Benefit of the quick, and dead seems to have been a new Notion. The Ancients would rather have said it was offer'd on their behalf. If this had not been a Popish Canon it had certainly been cited by the Adversaries of the Sacrifice in the Eucharist.

^b See Constitution first of *Otto*, 1238.

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would within the said time make this Request to the Bishop. And if the Rector, Governor, Vicar, or Archdeacon do forbear to make such Request, we ordain that from that time forward they be suspended from their Office till they make such Request. Let the Bishop, who upon such Request, denies to do it by himself, or by some other (unless the multitude of Churches to be consecrated in his Diocese, or some other lawful impediment plead for a greater length of time) let him (I say) know, that he is suspended from that time forward from wearing his Dalmatic, Tunic, and Saldals, till he thinks fit to perform the Consecration, and in the act of Consecration let him resume them. Let the Bishop perform the Ministry of Consecration *gratis*, and without demanding any thing at all, excepting due Procuration, lest he be struck with divine Vengeance, like *Simon*, and *Gebazi*.

4. Since the safety of Christian Innocence consists in the Arms of Virtue, the Apostle teacheth us to put on the Armour of God, and the Sword of the Holy Spirit; for we wrestle not with Flesh and Blood, but with the Princes of Darkness, who are overcome not with Arms of Steel, but with Prayers, and Tears, and virtuous Actions. Since therefore the use of offensive and vindictive Arms is forbidden to Clergymen, who are assum'd into the Inheritance of *Christ* by the Law of God, and Man, and that even in a just Cause; we inflam'd with Zeal for the honour of the Church abominate the Enormities of them who forgetting God, and their own Credit, dare bear Arms, and associate themselves with Robbers, and Highwaymen, and share with them in their Plunder and Booty; and commit such Villanies not only on the Goods of private Men, but of Churches, or on such Goods as were repositied in them, or in the Cloisters,

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sters, or Cemeteries belonging to them. We therefore pursue these Clerks that rave with Wickedness, yet with a care for their Salvation, ordaining, that whoever being an ordain'd Clerk bears Arms, or offends in the Premises does *ipso facto* incurr Excommunication; and unless he do within a certain term fix'd by the Bishop make Satisfaction at the Bishop's Discretion, let him from that time be *ipso facto* depriv'd of every Ecclesiastical Benefice, [which he holds] in the Kingdom, and yet be liable to the loss of his Order. And if he have no Benefice, let him be incapable of obtaining any for five Years, lest he go unpunish'd for so great Wickedness. And let not his Diocefan absolve him from his excommunication, till he have made Satisfaction as to the Premises, at the Diocefan's Discretion.

5. Whereas the holy Gospel directs him that wanted the wedding Garment to be cast out of Doors; and tho' that be meant of the Ornament of Virtue; yet the outward and inward Habit ought to agree together, lest the Man be offensive both to himself and others; a moderation in the exterior Habit has been by Tradition prescribed to us both by ancient and modern Fathers, and this is to be observ'd by Clergymen, whose name imports, that they are the Heritage of the Lord, and who are to have their Loins girt, and Lights in their Hands: In consideration whereof the Legate of good Memory aforesaid ordain'd and injoin'd, that they be compell'd to the clerical Habit as to their Clothes, and the Furniture of their Houses specify'd in the General Council by having their Benefices withdrawn by their Bishops; so that their Garments be of a decent measure, and that they use close Copes (if they be in holy Orders)

• See Constitution of *Otto* 13. 1238.

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ders) especially in the Church, and before their Prelates in the Assemblies of the Clergy, and every where in their Parishes, where they have undertaken Churches, with the Regimen of Souls. And that Bishops may the better reduce others to decency in Apparel, and Tonsure, and becoming Crowns, and fitting Furniture of their Horses, that they take care that this be first observ'd by the Clerks who sat at their Tables; so that in Garments, Spurs, Bridles and Saddles they accoutre themselves as becomes Clerks. Now we detesting the grievous abuse in the Premises, which is generally spread thro' the Countries of our Legateship, by which God is derided, the Honour of the Church clouded, the Celitude of the clerical Order depress'd, *Christ* is deserted by his Soldiers wearing a strange Livery, so that the Eye cannot distinguish a Clerk from a Layman to the scandal and abhorrence of all that are truly Faithful: We ordain, and strictly charge, that no Clergyman wear Garments ridiculous, or remarkable for their shortness, but reaching at least beyond the middle of the Legs, their Ears visible, not cover'd with Hair, and that they have decent Crowns of an ^d approv'd breadth; by which their laying aside earthly Things, and the Dignity of their Royal Priesthood is in a special manner signified. Let them never wear ^e Coifs in their Churches, or before their Prelates, or publickly in the sight of Men except in their Travels. Let Priests, Deans, Archdeacons,

^d That is according to their Order, and Degree, the Regulars should be larger than the Seculars, the Priests than the Deacons, tho' the practice is contrary to this: 3. 4.

^e The reason of this was that the Coif cover'd the Head, so that it did not appear, whether they had their Crown, or not: Therefore Lawyers in holy Orders us'd Coifs to conceal their Tonsure.

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Archdeacons, and all that have Dignities with cure of Souls wear close Copes, except perchance in their Journeys, or for some other honest cause they be otherwise apparell'd. If any Priests, Dignitaries, or such as have cure of Souls, or the Canons of Cathedral Churches offend in the Premises, as to Coifs, Crowns, or Tonsure, and do not make Satisfaction upon Admonition, let them *ipso facto* incur Suspension from their Office; and if they continue so for three Months, let them from that time be suspended from their Benefice; and not be absolv'd from these Sentences by their Diocesans, unless they first pay the sixth part of that Years Income to be faithfully distributed to the Poor by the Diocesans; beside other just Sentences which the Prelates may pass on their Subjects who offend in these Points. As to Priests, Deans, Archdeacons, and other Dignitaries, who offend in the point of Apparel we ordain the same to be observ'd; we leave other Clerks that offend in the Premises to be punish'd at the discretion of their Prelates. We charge Archbishops, Bishops, Archdeacons as other Prelates in virtue of their holy Obedience to make diligent enquiry upon the Premises in the Places subject to their Jurisdiction, and effectually observe the present Statute against Offenders; and cause it to be observed. And if they be negligent in their Enquiries, or in correcting according to the Statutes those who are convicted either by the notoriety of the Fact, or by any other means, let the Archbishops [and Bishops] be suspended from the use of the Dalmatic, Tunic, and Sandals; the Archdeacons, and lesser Prelates *ipso facto* from entrance into the Church, till they duly exercise their Office in the Correction and Emendation of the Premises. And whereas the Episcopal Dignity ought to be used for the advancement of Religion, we charge all

P invetted

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invested with that Dignity to wear a Habit agreeable thereto, as the canonical Institutes direct. And we especially command such as are or shall be advanc'd from Monasteries or other Religious Places to be Bishops, that they wear their Regular Habit; that so Dignity may not exclude a Religion, to which they should consider themselves as inseparably wedded. And we strictly forbid them the use of such Colours in their Garments, Furrs, or other Ornaments as agree not with their former Rule or Order; but that in these Points they observe the Statute of the ^f General Council.

^f 16 c. of the *Later. Council*, 1216. in which are these Words, *Pontifices in publico, & in Ecclesiâ Superindumentis lineis omnes utantur, nisi monachi fuerint, quos oportet deferre habitum monachalem. Palliis diffibulatis non utantur in publico, sed vel post collum, vel ante pectus connexis.*

6. Whereas it specially concerns the Honour of the Church, that carnal, secular business be not administer'd by Hands dedicated to heavenly Ministeries; and we think it sordid for Clergymen to gape after temporal Jurisdiction, and receive it from Laymen; so as to have the Title of Justices, and to become the Ministers of Justice, which they cannot do without an injury to the direction of the Canons, and to the clerical Order: We therefore for the extirpating of this horrid Vice strictly forbid all Rectors of Churches, perpetual Vicars, and Priests whatsoever to accept of a secular Jurisdiction from a secular Person, or to exercise [such Jurisdiction]. Let such as have accepted relinquish it within two Months, to as never to resume it. And lest Prohibition without Punishment should not be sufficient with evil Minds, we have decreed, that whoever offends against the Premises be *ipso facto* suspended from Office, and Benefice;

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and if he intrude into either during Suspension, let him not escape & canonical Vengeance. And let not such Vengeance be in any wise relaxed, till he has made Satisfaction at the Diocesan's discretion, and given Oath that he will not do the like for the future. ^h With a saving to the King's Prerogative in these Points.

^s That is most probably Excommunication, which is sometimes denoted by this Phrase; yet in the common course the suspended Priest by officiating incurred an Irregularity from which none but the Pope could release him; but it was with this Exception, that if the Bishop were mentioned in the Canon as the Cognisor (which seems to be the case here) then there was no necessity of applying to the Pope.

^h This saving entirely defeated the Constitution. It is certain in Fact, that the Kings of *England* in all Ages thought they had a right of employing what Subjects they pleased of the Clergy as well as Laity in any Post of Civil Government; and it is certain in Fact, that very many in Holy Orders have been Chancellors, Treasurers, not to say Chief Justices, and must therefore have sat Judges in Life and Death. The *Chancery* was fill'd with Clerks in inferior, if not in holy Orders; and there were many in other Courts, and they were deemed to be under the King's Protection, and out of the reach of the Bishops Courts: And the Pope, and Bishops generally conniv'd at it: Only, if a hated Clergyman got into an eminent Civil Station, then such Canons and Constitutions as this of *Othobon*, were objected against him, and perhaps application was made to the King to remove him.

7. According to the Sentence of the holy Canons, we by this Constitution strictly forbid Clergymen to exercise the Office of Advocates in a secular Court in a Cause of Blood, or in any cases whatsoever, except those allow'd by Law. If any offend so as to plead against the Defendant in case of Blood; let them be suspended from their Office. In either Cases let them be punish'd in proportion

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to the Crime at 'discretion of their Diocesans. We forbid any Clerk to be Judge, or associate in any Trial touching Life or Member. Let who-soever offend, besides the penalty of Suspension from Office (which let them incur *ipso facto*) be otherwise punish'd at the discretion of their Superior; from which Sentences of Suspension let them by no means be absolv'd by their Diocesans, without first making competent Satisfaction.

8. Not only the Divine, or Canon Law, but the Admonitions of secular Princes have with a judicious piety observ'd, how contrary it is to Christian Purity to touch holy things with polluted Lips and Hands, by wisely and wholesomely injoining Chastity to all the Ministers of *Christ*, and Holy Mother Church; which the ¹ Legate aforesaid imitating with a laudable Zeal, hath ordain'd and given in charge, that unless Clerks, and especially they in holy Orders, who *publickly* keep Concubines in their own, or other Mens Houses, dismiss them within a Month, so as never to retain them, or any others for the future, they be suspended from Office and Benefice, and that they do not at all concern themselves with their Benefices, till they have made full Satisfaction in this Point; or else that they be *ipso jure* depriv'd of those Benefices. And we desiring that Chastity as the very Gem of Virtues may shine in the Clergy, whom we cannot only persuade, but command in a Point to which they are ty'd by the Bond of Profession, pursuing the Statute of the aforesaid Legate against Clerks who *publickly* keep Concubines, do farther ordain, that the Archdeacons who have the care of Places next under the Bishop, do yearly make strict enquiry after concubinary Clerks, and cause the said Legate's Statutes to be executed upon them. And yet let them be bound to de-
nounce

¹ See Constitution of *Otto* 16. 1238.

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nounce such as they discover to the Bishop, that he may exercise his Pastoral Office upon them : And if any Archdeacon, or Bishop (after such Denunciation) be guilty of Neglect, let the Archdeacon be suspended from entrance into the Church until he makes Denunciation; and the Bishop from the use of the Dalmatic, Tunic, and Sandals, until he retrieve his Neglect by executing what is ordain'd. And since he who gives assistance and consent to another in Sin equals him in Guilt; we ordain, that they who knowingly admit Clergymen to commit Sin in their Houses, or hire, or lend their Houses to their Concubines, if they are Clerks, be punish'd in the same manner [with the Principals] if they are Laymen at the discretion of the Bishop. And let the Concubines who are convicted by notoriety of the Fact, or by any other lawful means, be wholly forbid entrance into a Church, during Divine Service; nor let the * Sacrament be given to her at *Easter*: Since they eat and drink their own Judgment, who receive that unworthily. And because the convicted in Adultery, either by the notoriety of the Sin, or by Confession, often flies into other Parts to escape Punishment and to continue licentiously in his Sin, we ordain, that if any one do thus run from one Province of our Legateship to another, the Bishop into whose Diocese he comes, or his Official at the Mandate of the Prelate, in whose Diocese, or Jurisdiction the Refugee committed the Offence, do effectually execute the ¹ Sentence of

* *Lat. Viaticum.*

¹ The Sentence was supposed to have been passed in the former Diocese for notorious or confess'd Adultery. This last Clause of the Constitution is independent on the foregoing part. It is pity this Clause is not universally exercised as it well deserves.

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Excommunication before pass'd against him, till he return to salutary Penance.

9. The Direction of the holy Canons is like a Key to open the various Gates of Salvation and Grace to Men, which is therefore necessary to be had by them who have the cure of Souls, and he who keeps this Key ought not to wander from his Station, that he may be always ready for them that call, and bring those to him by his Exhortations who do not call. Tho' the ancient Authority of the Fathers have decreed this, yet it is not observ'd by those who love temporal Profit beyond eternal. The said ^m Legate providently ordain'd, that no one should be admitted to a Vicarage, but he who was already Priest, or at least who might be ordain'd Deacon the next *Ember-week*; who renouncing all other Benefices, if he had any, with cure of Souls should swear to keep corporal Residence at that place: Otherwise he decreed the Institution to be null, and the Vicarage to be conferr'd on another. As to them who had already been instituted, and yet not ordain'd Priests, he ordain'd, that within one year from that time they should procure themselves to be ordain'd Priests, or else that from thenceforth they should be depriv'd, and their Vicarages given to others. But we designing to restrain the evil Doers with a seasonable Severity do farther ordain, that if any one detain a Vicarage contrary to this Statute, the Fruits which he has receiv'd be not his own, but that he be bound to make Restitution of them, that is, that one half of them be given to the Church, to which the Vicarage belongs, to be converted to the use thereof; and that one part of the other half be expended on the Poor of that Parish, and the other part be paid to the Archdeacon. And let the Archdeacon make diligent enquiry

^m See Const. of Otto 10. 1238.

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enquiry every year on these Points, and cause this Statute firmly to be observ'd. And if he find that any one detains a Vicarage contrary to the Premises, let him forthwith denounce the Vicarage vacant to the Prelate, who is to collate or institute to that Vicarage, that he may do his duty in this Matter, as it concerns him. And let him not institute in any other manner, nor defer Institution into the Vicarage after denunciation so made, or notify'd to him : And if he offend, let him know (whatever he be) that he is suspended from collating, instituting, or presenting to any Benefices, till he put in Execution what is ordain'd. Farther, that all attempts of Malice may be repress'd by our Industry, we ordain, that if any one endeavour to retain a Vicarage contrary to the Premises, and persist in his Rebellion for a Month, beside the Punishments above inflicted, he be depriv'd of other Benefices, if he have any; and let him be for ever incapable of the Vicarage which he so vexatiously retain'd, and for three Years of other Benefices, of which he made himself unworthy by his adulterous Virulence. And all this we extend not only to future, but to past times, and ordain that it be effectually observ'd. And if the Archdeacon neglect what has been above injoin'd him, let him be depriv'd of the Share before assign'd to him, and be suspended by Authority of this Statute from entrance into the Church, till he executes the Premises; beside that he incurs the Indignation of God.

10. Damnable Self-love, and Presumption subvert Reason: It desires what belongs to another so as to banish Charity, and to affect the death of the Possessor; and when Death and Chance seem too slow, Artifice and Fiction impudently start up, and provoke the divine Wrath, pretending that the living Possessor is dead, or has resign'd. Be-

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cause this mortal Disease has infected those on this side the Sea in *England*, the said ^a Legate ordain'd, that the Benefice of an absent Man should not be given away on pretence of an Opinion, or report of his Death, or Cession; but that the Prelate should stay till he had receiv'd fuller Information; or should else be oblig'd to repair all Damage done to the absent Man; and that he who procur'd himself to be thrust in, shou'd beside Restitution of Damages be *ipso facto* suspended from Office and Benefice: And he extended this to him who seiz'd a Benefice possess'd by another by Violence, or Fraud, by his own Authority, or rather Rashness; or that attempted to defend himself in it by Arms, after it had been declared that it belong'd to another. But we providing a more perfect Antidote, ordain, that for the future no Ecclesiastical or secular Patron present any one to a Church, of which he has the Advowson, unless he have probable notice of its vacancy: In which Case, tho' he may present, lest Prejudice be done by lapse of time; yet let the Prelate,

^a See Constitution of *Otto* 11. 1238. One may wonder at first sight what should make these two Cardinals successively such zealous Assertors of the Properties of the *English* Clergy; we find no Constitutions of our own Prelates that express such a Concern on this Head as these two *Romish* Emissaries in these Constitutions. The truth seems to me to be this: These Provisions were made in behalf of absent Clergymen. The chief occasion of the long absence of Clergymen was their going to *Rome* to attend Appeals, to procure Dispensations, or Indulgences, to get Perferment, or out of Devotion to the *Limina Apostolica*. It was much to the advantage of the Pope, and City of *Rome*, that the Travels of the Clergy thither, and their long stay there should be encouraged, and truly by these Constitutions their Rights were better secur'd in their absence, than they would have been by their being at home, and keeping Residence.

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Prelate, to whom the Institution belongs not admit, or institute the presented [Clerk] unless he be assur'd of the death of the Rector, or of the lawful vacancy by some other means. Let no assurance suffice in these Cases, but the corporal Presence of the dead, or resigning, or otherwise vacating Man; or if he be absent, let certain Testimony be produc'd by the Letters of the Bishop of the Diocese in whose City, or Diocese he shall be reported to have died, or otherwise to have made his Demise, or at least of some other authentic Person, sign'd with one or more authentic Seals, or by a public Instrument, or by Witness sworn, and beyond all Exception, not upon Belief, but certain Knowledge according as the Law requires. And if any one be *de facto* instituted, or rather thrust into a Church in manner contrary to what has been mention'd, let such Institution be void and of none Effect, nor let any Right accrue to any one by means thereof, tho' it should afterwards appear that the Church was vacant at the time of Institution. And when afterwards ther is full Evidence of the former Rectors being alive by his personal appearance, or otherwise by authentic Letters, public Instrument, or by idoneous Witnesses, let the Prelate who instituted, as well as he who was so instituted be bound to make Restitution of the entire Profits, Damages and Expences, which the Rector hath incurr'd on this account; one of them not being acquitted by the Payments made by the other. And because a pecuniary Penalty is not sufficient where ther is a spiritual Offence; we ordain that the Prelate who instituted contrary to this [Decree], do remain suspended from collating, instituting and presenting to any Benefices whatsoever from the time that he committed the afore said [Offences] till the Possession of the Church be restor'd to the Rector. We
add,

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add, that if the Intruder persist in his Rebellion for three Months, so that the Church be not restor'd to the Rector, after Evidence has been given of his being alive in manner above-written, then beside the Punishments aforesaid, let him from thenceforth be depriv'd *ipso facto* of all the Benefices that he has in the Kingdom, and let him be utterly disabled from obtaining that Benefice which he so detain'd, and of which by his rapacity he hath render'd himself unworthy, when, or howsoever it shall become void. And if he have no Benefice, let him be for ever incapable and wholly disabled *ipso facto* by authority of this Statute, not only of that Benefice which he presum'd thus to get, but of any other in that Diocese which he has so wickedly disturb'd. And we will and command, that the aforesaid Punishments be extended to all, who at the Presentation [° of a Patron] or by any other means presume to seize Benefices, or Churches, without the canonical Institution of a Prelate, whether they do it by themselves or by others; as also to those who before this Constitution have seiz'd the Benefice, or Church of a living Man, and yet keep themselves seiz'd of it; and to them who thrust themselves in without the canonical Institution of a Prelate; unless the Seizors, or Intruders do wholly relinquish what they have thus taken within three Months from the Publication of this Constitution; without any diminution of those [Punishments] ordain'd against such Men in the Constitutions of the Legate aforesaid, and of the Provincial Councils within our whole Legateship: For we do not think those Punishments to be ^P in Equity sufficient against such Offenders; esteeming it more tolerable, that a Church, or Benefice be vacant for a length of
time,

• This is only in Sir *H. S.*

^P I read *ex aequo*, not *ex quo*, as both Copies.

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time, than that a Rape should be committed upon them for one moment by a violent Possessor. Farther, when probable notice of a vacancy comes to an Archbishop, or Bishop to whom the Collation of the Church, or Benefice belongs, in any other manner than those above-mention'd; if he perchance confer that Benefice, or Church for fear of a Prejudice to himself by lapse of time; yet let him not give corporal Possession of it, nor cause it to be given till he have Evidence of the vacancy in the manners before-mention'd. Nor let him to whom the Collation is made presume to enter into Possession by the authority of himself, or of any other. Let the Archbishop, or Bishop who offends herein be liable to the Punishments above-written. But let him to whom such Collation was made, if he take Possession contrary to the Premisses, be for ever depriv'd of that Benefice, and yet be liable to the other Punishments aforesaid.

¶ It seems plain that a Church was now deem'd full by Institution against all Persons whatsoever: Otherwise Institution without Induction could not have secured the Bishop's Interest in the Benefice.

II. Perfection attends Unity in divine, and spiritual Ministeries, Division introduces ruin, therefore the Authority of Catholic Unity hath enacted, that ther be but one Rector in one Church, as one Head to one Body. But the Sower of Tares by the Discord of several Patrons in one Church, and sometimes by the Invention of covetous Men, who pursue nothing but the temporal Gain arising from the Church hath introduced a pestiferous splitting of a Church, by transferring it upon more than one, and a concealment of a wicked Practice by a change of Names. And the Covetousness of some Prelates is so flaming,
that

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that they do not admit such as are presented to Ecclesiastical Benefices, without retaining a certain Portion of the Profits to their own disposal, which they either apply to their own Uses, or confer it upon others absolutely, or for a time at their own discretion: The aforesaid † Legate for the restraining thereof by Law, wholly forbidding such Assignments and Innovations hath ordain'd, that a Church be never divided into several Parsonages, or Vicarages, and that such as had been divided should be united by the first opportunity, unless a Church had ‡ of old been so order'd, in which Case he ordain'd that the Bishop of the place should take care, that the Income, and Parish should be proportionably divided between them, and that some one should always reside on the Church, who taking the cure of Souls should honestly employ himself in the Celebration of divine Offices, and administering Sacraments. We therefore emulating the Sanction of the said Legate do farther ordain, that every such Division made before the Constitution of the said Legate (unless it were so long before, that it may in Law be deem'd † ancient) or that has been made since; as also the Retainment or Assignment of any Portion of the Profits of Ecclesiastical Benefices, which could not be done without Simony, be wholly revok'd by the Diocesans of the Places: And if any Division, or Retaining, or Assignment of any Portion be made for the future, we decree it to be null *ipso jure*. And lest he who collates, presents or admits several to the same Church should go unpunish'd, let the Presenter, or Presenters lose the right of presenting at the next turn, which is to devolve to the next Superior. But if a Prelate have so collated, or admitted such

as

† See Const. of Otto 12. 1238.

‡ Beyond the Memory of Man, J. A.

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is were presented, or have retain'd to himself, or assign'd to any other a certain Portion, absolutely, or for a time, let not only his Institution, Retaining, or Assignment be of no force; but let him be *ipso facto* suspended from Collation, Institution, or Presentation to any Benefices, till he hath^a revok'd it.

^a For the Bishop to revoke what before had been declar'd of no force seems to me an Inconsistency.

12. The Immunity of the Church was intended as a Refuge for the oppress'd, insomuch that it protects Murderers from violence, much more Innocents, and things which have committed no Fault, but were repos'd within the Verge of the Church against fear of the Enemy. The more dangerous the perfidy of those Men is who in contempt of the Fear of God, and of the Church, and of Humanity, and of their own Credit, who do by force take Refugees, and make Booty and Plunder of the things; the more careful ought we to be in protecting the Persons who flew thither, and of the things there repositied for Security, and of the Salvation of those profane Men: We therefore prosecuting such Iniquity with a perfect hatred, as in duty bound, do ordain, that if any one do by violence drag away any one that flies to a Church, Church-yard, or Cloister, or prohibit him necessary Victuals, (like a Murderer) or carry, or cause to be carried away by force the things of other Men there repositied; or take upon himself the dragging, prohibiting, or carrying away committed by others; or do publickly, or privately give aid, or consent to them who so dragg'd, prohibited, or carried away, let him be *ipso facto* excommunicate; and by no means absolv'd till he hath first made Satisfaction to the Church so injur'd and damag'd. And if the excommunicate

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do not within a certain time fix'd by the Dioceſan make Satisfaction upon Monition, let his Land be laid under Eccleſiaſtical Interdict: and let it not be relaxed before Satisfaction is made. And if he have no Land, let the Lord of the Land in which he dwells be laid under Eccleſiaſtical Interdict, to continue ſo long as he dwells there, if he upon Admonition do not expel him from thence within a certain time given him. If the excommunicate be a Clergyman, and do not make Satisfaction within the term fix'd by the Prelate, upon Admonition, let him from that time forward be depriv'd of every Eccleſiaſtical Benefice that he has in the Kingdom: But if he have none, let him be diſabled from obtaining any in the Kingdom for five Years: For he is juſtly excluded from the Goods of the Church, who has violated Charity and the Honour of the Church to contempt of God, and damage of his Neighbour. And we will, and injoin that the premiſed Statutes be all obſerv'd againſt Burners and Breakers of Churches. Farther, if any one coming to the Houſes, Manors, Granges, and other the like places of Arch-biſhops, Biſhops, or other Eccleſiaſtical Perſons, or belonging to the Churches themſelves, do conſume, carry away, or lay Hands upon any thing without the will, or permiſſion of the proper Owners, or of their Deputies, let him be *ipſo facto* excommunicate, and not abſolv'd till he has made Satisfaction. And leſt this wholeſom Statute be neglected under pretence of Ignorance, we charge that it, or the purport of it be always * declar'd after the firſt publication thereof in Cathedrals, Collegiate, and other Churches, by the Chaplains, and Rectors thereof on every *Lord's-day* in the Year,

* Yet this Publication is more than what is neceſſary, ſays *J. A.* becauſe this Conſtitution is only declarative of the old Law, nor introductive of any thing new.

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Year, when the greatest number of the Parishioners and Faithful are present.

13. As the Conjugal Covenant being instituted by God, is not ¹ subject to human Power, so ought not the Solemnization of it in the sight of Men, whereby it may be notified to all, to lie open to the bold opposition of any Man: Therefore we strictly forbid any Man to hinder the Solemnization of Matrimony (lawfully contracted) in the face of the Church. And let Bishops whose concern it is to protect what is sacred, take care duly to punish such Presumers.

¹ That is cannot be dissolv'd by human Power, when once lawfully contracted and consummated: for this hath long been the judgment of Canonists.

14. As the Laws do very much favour the liberty of the last Judgment, so it is fitting that we promote the Execution of it, that none may obstruct the Will of the Testator: Therefore we have thought fit to ordain, that no Executor be admitted to the Execution of any Testament, and that no Will be presented to the Ordinary according to the approv'd Custom, or be in any wise prov'd by him, unless he first expressly renounce the Privilege of ² his own Court, as to this Act. And we charge and ordain, that the Executors of such Testaments, before they meddle with the Administration of the Goods do make an Inventory in the presence of some credible Men who know the value of the Goods, and exhibit it to their superior Prelate. If any one presume to administer before he has made an Inventory, let him be punish'd at the Bishop's discretion.

² That is of the temporal Court, for the Executor is presumed to be a Layman.

15. We desiring, according to the Charge laid upon us, to remove Hardships from Churches,
that

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that they may not be afflicted with a double Desolation, especially by them who as Superintendents owe a daily Concern to them, especially when in a State of Widowhood by the loss of their Rectors, do ordain, that when Churches are vacant, the Prelates to whom they are subject, do not take the Profits of them by the year, or by any other space of time, nor make what they receive their own; but let them be dispos'd of, ^a as is ordain'd in the Canons, unless perchance the Prelates by special Privilege, or ancient Custom can claim such a right; and if they offend, let them be suspended from their Office till they make entire Satisfaction. We wholly forbid Prelates, what ^b the Canon also forbids them, *viz.* to make Sequestrations of the Fruits and Profits of Ecclesiastical Benefices, unless special Cases arise, in which the Customs and Laws allow them. We have decreed all Sequestrations made in other Cases, and the Sentences of Excommunication, Suspension, and Interdict pass'd thro' such occasions to be null *ipso jure*. And let the Prelate who makes such Sequestrations be *ipso facto* suspended from the use of the Dalmatic, Tunic, and Sandals till he has revok'd them.

16. Gratuitous

^a What Provision was made by the Pope's Canon Law in this Age, touching this Point I cannot discover. It is true indeed that the mesne Profits were to be applied to the vacant Church, but the *Extravagant* cited for it *Quia scpe*, *Sext.* says no such thing, and besides that bears date 1289, and therefore could not be meant here: For it was made twenty Years after this Constitution. The Profits of a Benefice might be bequeathed by the dying Incumbent to his Friends till the end of the next Harvest, if he liv'd till *Lady-day*: If he died before, generally speaking the Benefice was filled by Harvest. In singular cases the Ordinaries, and Successors strove which should get most.

^b Here too I am at a loss where to find *Oshoben's* Canon.

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Canon. It is true Sequestrations are discountenanc'd by several Decretals, but no where forbid. In some cases it was necessary, as when the true Possessor was not known.

16. Gratuitous Concessions, when abused manifest the Ingratitude of him that receives them, especially when stretch'd beyond their Bounds to the hurt of another. The Piety of Ecclesiastical Provision allows no hard Terms to be put by one upon another. But when a private Person desires a proper Chapel, and the Bishop grants it for a just Cause, yet he always uses to add, *so that it be done without prejudice to the right of another.* And we pursuing the same wholesom method ordain and strictly charge, that the Chaplains ministring in such Chapels as have been granted with a *Saving* to the Rights of the Mother Church, restore to the Rector of that Church, without making any difficulty, all the Oblations and other things which ought to come to the Mother Church, if they had not intercepted them; and which therefore they cannot in justice retain. If any one contemptuously refuse to do it, let him be suspended till he hath made Restitution.

17. Prosecuting the Covetousness of some who having receiv'd much from their Churches and Benefices, neglect their Houses and other Edifices so as not to repair or rebuild them, by which means Deformity and Inconveniency attends the State of Churches, we ordain and charge, that all Clergymen take care to repair decently the Houses and other Edifices belonging to their Benefices, as occasion shall be; and that they be monish'd to this purpose by their Bishops, and Archdeacons with great Earnestness. And if any one for two Months after such Monition neglect to do it, let the Bishop cause it to be done after the end of

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that term at the Cost of the Clergyman^c out of the Fruits of his Church, or Benefice by the Authority of this Statute; by causing so much [of the Fruits] to be taken as may be sufficient for the finishing of the Repairs. And let them also cause the Chancels of the Church to be repaired by those who are bound to do it in the manner before exprest. We charge the Archbishops, Bishops, and other inferior Prelates under Attestation of the divine Judgment to keep their own Houses and Edifices well repair'd, and cause such Reparations to be done as they know to be wanting.

^c *g. A.* by I know not what Art makes this one of the two just occasions of sequestering a Benefice: Another just Cause is, the cutting down ancient Timber-Trees without necessity.

18. That Seed should befruitful and multiplied to the Labourer is natural, but to reap where one does not sow is absurd: Whereupon the Providence of Canons hath decreed, that the Church which hath receiv'd a Visitation (which was instituted for the Temporal and Spiritual Benefit of the Churches) should yield a Procuration to the Visitor. But since the Procuration becomes a Debt on account of the Visitation, it may be call'd a Payment in a Man's own wrong when that reason ceases. Therefore, whereas we are given to understand that very many Prelates demand Procurations of their Subjects, tho' they pay not the duty of Visitation, we providing for the Indemnity of Churches, as well as the Salvation of the Prelates do strictly forbid any of them to receive a Procuration of any Church whatsoever, unless when he pays to it the duty of Visitation, on account of which it becomes due. And let him that receives it be suspended from entring into the

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the Church till he make Restitution. ^d Let not the Bishops, or other inferior Prelates aggrieve their Subjects with a superfluous Retinue, or number of Horses and Men beyond what has been determin'd by the ^e Constitution of Pope *Innocent* the Fourth of happy Memory, lest the Visitors seem rather to affect lucre of Money than to preserve the State of the Church, or to seek the Salvation of Souls: And if they attempt this, let not their Subjects obey them in this respect: And we have decreed, that the Sentences of Excommunication, Suspension, and Interdict pass'd on such Occasions be null *ipso jure*. And let them not at the time of Visitation bring with them an intolerable multitude of Men, by which the Peace of Churches uses to be disturb'd; but let them follow that Moderation which the Canonical Constitution of the ^f *Lateran* Council hath publickly directed.

^d See Constitution of *Otto*, 20.

^e *Sext. Decretal. L. 3. Tit. 20. c. 1. Sect. 5, 6.* which forbids any thing to be given or taken, but moderate Entertainment without any Money.

^f Under *Alex. 3. c. 4.* There the Archbishop is forbid to visit with more than forty or fifty Horses or Men, the Bishop with above twenty or thirty, the Archdeacon with more than five or seven, the Rural Dean with more than two.

19. God accepts no Pay, nor even Holocausts for Sin, but some deputed for Government remit Punishment for Money; by which means the Sin of the Offender and the Judge are *seal'd up in a Bag*, and they are both to be condemn'd together; and because the Sinner is afraid of no Crimes which can be redeem'd with Money, (according to Bishop *Isidore*) the malice of the Will is not in the least diminish'd, but Authority and Licence is granted to Sin. As to the Correction of such

§ *Job xiv. 17.*

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Crimes

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Crimes the forenam'd ^h Legate ordain'd, that Archdeacons should prudently and faithfully visit the Churches as to the sacred Furniture and Vestments, and by inquiring how the Nocturnal and Diurnal Offices of the Church are perform'd, and in general both as to Temporals and Spirituals, and that they correct what they find needs Correction; that they do not aggrieve the Churches with superfluous Expences, but demand moderate Procurations only when they visit; that they bring no Strangers with them, but be modest as to their Retinue and Horses, and receive no Money of any one for not visiting, for not correcting, for not punishing, and that they involve no Man in an unjust Sentence in order to extort Money from him: Therefore because these things favour of Simony, he decreed that the Offender should pay the doubles of what he had extorted, to be distributed for pious Uses at the discretion of the Bishop, with a *Saving* for other canonical Punishment. He charg'd the Archdeacons also frequently to be present at the Chapters in every Deanery, and there among other things to instruct the Priests to know, and soundly to understand the Words of the Canon of the Mass, and of Baptism, especially those which are essential to the Sacrament. We therefore to improve the Statute of the Legate aforesaid publish'd against such Men, do ordain, that Archdeacons take no Money for any Crime that is mortal and notorious, or which may occasion Scandal, but punish it with a just Animadversion. And we strictly charge Bishops that they cause this wholesom Statute firmly to be observ'd.

^h See Constitution of *Otto* 20.

20. It is a great Indignity to spiritual Things to traffick for them with Money, since *Peter* said to *Simon*,

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Simon, Thou hast no part nor lot in this matter. Thus we have found a Constitution of the aforesaid ⁱ Legate providently forbidding Dignities, or Offices, as Deaneries, Archdeaconries, the Profits of Ecclesiastical or Spiritual Jurisdiction, or that arise from Penance, and the Altar, or from other Sacraments to be in any wise granted to Farm. Now we hearing that many offend against this wholesom Statute do farther ordain, that for the future such granting to Farm be of no force: and that neither of the Parties contracting be oblig'd to the other by such Contract, however it be strengthen'd, by whatever Authority of the Law, or Renunciation of the Benefit to be had by this Constitution; and that a third part of the Profits of what is so let to Farm in fact against this Statute be by all means applied to the Fabrick of the Cathedral Church. All which Particulars we will have to take place when a Church is farm'd to Laymen; or when 'tis farm'd to Clergymen for above five Years contrary to the Constitutions publish'd by the Legate in this respect. And farther desiring to fore-arm the Church against a grievous Mischief, we strictly forbid them to be let to Farm to their Patrons.

ⁱ See Const. of Otto 7. 1238.

21. The good Shepherd is as watchful in looking after, and defending his Flock, as the Wolf is in invading and persecuting them. He that often goes and comes does not find what he left, because the Adversary who always resides and never sleeps has taken it away. Tho' Bishops are tied to personal Residence with the Flock of God committed to them both by Divine and Ecclesiastical Injunctions; yet because ther are some in the Countries of our Legateship, who seem not to mind this; therefore we pursuing the Monition of

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the aforesaid ^k Legate to the Archbishops, and Bishops in this respect with an emulous zeal do exhort them in the Lord, and under Attestation of the Divine Judgment, and in virtue of their holy Obedience, that out of care to their Flock, and for the comfort of the Churches which they have espoused, they be present especially on the solemn Days in *Lent* and *Advent* at those [Churches] to which they have plighted their Faith, and there consecrate the holy Chrism, and the holy Oil, and the Oil for the Sick on *Maundy Thursday* every Year (unless they are oblig'd to absent themselves on these Days for some just Cause at the command of their Superiors) that they may carefully keep watch, as their name of Bishop intimates, and as the Ministry committed to them requires, which carries as much Burden as Honour along with it.

^k See Const. of *Otto* 22. 1238. Ther is King *Henry's* Letter to the Bishop of *Hereford* extant. See *II. S's* vol. 2. p. 316. in which the King charges the Bishop to return to his Church and reside there; or else he threatens to seize the Barony as his own which he had already taken into his Hands, because the Bishop had left his See without appointing a Vicar General; the Canons had follow'd the Bishop's Pattern, and were all Non-resident.

22. Because the Decrees of the holy Fathers, and of the ¹ *Roman* Pontiffs do carefully forbid Alienations of the holy Churches, we as we are in duty bound imitating them to the best of our Power

¹ It seems to me an impudent Contradiction to Truth to say that Popes have by their Decrees forbidden Impropriations; they have indeed sufficiently forbid Alienations of Churches, or what belongs to them, to Laymen. However we are beholden to the Legate in one particular, *viz.* that he allows Impropriations to have been Alienations, much more would he have done so, if he had liv'd in King *Henry VIII's* Reign.

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Power strictly forbid Bishops to confer a Church subject to them on another Bishop, Monastery or Priory by right of Appropriation, unless he to whom he confers it be so oppress'd with Poverty, or unless ther be some other lawful Cause, so that the Appropriation may be rather esteem'd agreeable to Piety, than contrary to Law: And if any Appropriation be made contrary to the Premisses, let it be void and of none effect *ipso jure*; but let it by all means be revok'd by the Bishop who made it, so farforth as he proceeded *de facto*. Some also that they may swallow the whole of the Profit of a Church that used to be under a Rector, but is now granted to them, leave it destitute of a Vicar; or if they do institute a Vicar leave him but a small Portion insufficient for himself and for bearing the Charges of the Archdeacons, and other Burdens; by which means what was granted as Alms, becomes a Rapin: Therefore providing wholesom Remedies in this respect we ordain and strictly charge, that the *Cistercians*, and all others who have Churches for their own use, if Vicars have not been placed in them, do within six Months present Vicars to the Diocesans who are to institute them. And let the Religious take care to assign them a sufficient Portion according to the value of the Churches; or else from thenceforth let the Diocesans take care to do it. And we ordain, that such as have Churches to their own use, do build Houses in the Parishes belonging to them, or rebuild, and preserve them where they have been formerly built, for the^m reception of the Visitors. We charge that the Premisses be done and observ'd by Bishops as well as others who have Churches for their own use.

^m And therefore *J. A.* intimates, that ther must be a Closet and a Chimney in it.

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23. Since the uncertainty of Death oft deprives Men of the opportunity of making their last Wills, human Piety treats the dead with Mercy, by distributing their Goods for pious Uses, so that they follow and help them, and do in a propitiatory manner intercede with the heavenly Judge for them: Therefore we by our Approbation confirming ⁿ the Provision made concerning the Goods of such as die intestate by the Prelates of the Kingdom of *England* with the Approbation of King and Barons, do strictly forbid Prelates, and all others whatsoever, to take, or seize the Goods of Intestates contrary to the Provision aforesaid.

ⁿ *J. A.* here cites the Stat. 13. *Edw.* 1. c. 19. which was made many Years after this Constitution, and which therefore could not be the Law here meant. Bishop *Gibson* declares he could not discover what the Provision was here intended. *Cod. p.* 572.

24. The Authority of him that judges gives Strength and Credit to the Judicature. A Man of eminent Station, and large Estate may more safely take Truth for his Guide, and carry a promise of acting with Courage and Justice: Therefore adhering to the ^o sacred Canons, by which it is ordain'd, that Causes delegated from the Apostolical See be committed to none but those of great Dignity; we mov'd by that Authority ordain that Causes be ^p committed by Archbishops, Bishops, and other Ordinaries to none but Persons of Dignity, or Office, or to the Canons of Cathedral, or other Collegiate Churches.

^o The only Text in the Canon Law to which *J. A.* here refers us, that contains any thing to this purpose, is that *Sext. L.* 1. *Tit.* 3. c. 11. And this was made by Pope *Boniface VIII.* above thirty Years after *Urbobon's* Constitutions.

^p *J. A.* here declares that this Constitution was not observ'd in his time.

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25. The Coverousness of Men reflects all the ardour [of love] toward themselves; which the Artifices used in Suits sufficiently declares: For here every one thinks that right and just which is to the hurt of his Adversary, and the advantage of himself. Because Frauds had been discover'd in the point of Citations the aforesaid ⁹ Legate *Otto* ordain'd, that Letters of Summons should not be sent by those who obtain'd them; but that the Judge at the moderate Expence of him who obtain'd them, should send them by his own faithful Messenger, who should diligently seek him, and if he could not find him, should cause the Letters to be read and explain'd on the *Lord's-day*, or other Solemn Day in the Church of the Place where he used to dwell: Or at least that the Summons be directed to the Dean of the Deanery where he dwells that is to be summon'd, and that he at the command of the Judge faithfully execute them by himself, or by certain and faithful Messengers, and not neglect to certify what he has done therupon: But we for the more cautious proceeding in the point of Summons, and for the taking away the occasion of danger, so far as we can, add to the Constitution of the said Legate, that when a Judge sends out Summons against an absent Man, he commit the Execution of it to the Dean of the Place, or to some certain Person, and let him to whom it is committed, when he has faithfully executed it, certify the Citation according to the form of the Statute. ^r Let no credit be given to a Citation made in any other manner, nor let any Punishment be inflicted upon him who is said so to have been cited.

⁹ See Const. of *Otto* 26. 1238.

^r Dele *cum* in *J. A's* Copy.

26. The laudable Office of Advocates, who are

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as it were Champions of Justice is lessen'd by those who use it unfaithfully, and obstruct Justice by entangling Causes. The aforesaid [†] Legate diligently and prudently considering this among other holy Constitutions decreed, that whoever would be promoted to the Office of an Advocate, should give Oath before the Diocesan, in whose Jurisdiction he was either by Birth, or Habitation, that *in the Causes he undertakes he will perform the part of a faithful Patron.* We therefore desiring to enlarge such a Statute by which Iniquity is opposed, Justice and Truth reliev'd, do moreover ordain, that according to the Contents of the said Statute, no Advocate be allow'd to undertake a Cause, unless he first shew the Letters of the Diocesan (before whom he is injoin'd to take the Oath) certifying that the Oath has been given him, or unless he make Oath anew.

[†] See Const. of *Uto* 29. 1238.

27. Since Judicature ceases when the Plaintiff and Defendant are agreed, and the Judge hath nothing to do according to the Sanctions of Law, but to end the dispute between them; he greatly offends who endeavours to obstruct the Parties when they are disposed to peace. But because by this means God is provok'd, Man is hurt, the Judge's Credit is impair'd, Controversies are cherish'd; we improving the [†] Statute of the said Legate, who contented himself in this Case with a simple Prohibition; do moreover ordain, that if any one for the future take any thing for obstructing of Peace, he be by all means bound to restore it to him that gave it, and give as much in Alms to the Poor, or else let him be excommunicate from the time he committed the Crime, till he make Restitution as is aforesaid.

[†] Const *Uto* 21. 1238.

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28. As Ecclesiastical Censures use to be publickly notify'd, as a medicine intended for the cure of the Party coerced; so it is expedient that the Absolution of him that was bound be made known too, lest he be avoided to his Reproach, as he ought not to be: Therefore we ordain, that when any one is released from the Sentence of Excommunication, Suspension, or Interdict, some body be commanded to notify the Releasement at proper times and places.

29. Christian Truth is so far abandon'd thro' the pride of Mens Hearts, that whereas every Man is scarce sufficient for the care of his own Soul, yet Men over-rating themselves undertake the cure ^u not only of many Men in one Benefice, in which sometimes they do not reside, nor enter into holy Orders as the Cure requires; but also often heap up to themselves many and even innumerable Cures, and walking in Vanities and Lies deceive the Souls which they undertook to cure: for the thing was impossible. The Constitutions of the holy Fathers, and of the *Roman* Pontifs, and other Men of Authority both now and of old have carefully labour'd to rescue such Men from danger, who helping the Flesh against the Spirit, against God, and Man, and indultiously departing from God throw themselves to the Devil, rob *Christ* of Souls, and convert the ^x Alms of the Poor to superfluous, not to say wicked Purposes: And their Labour was meritorious in regard to the faithful Labourers in the Lord's Vineyard; and it was a virtue in them to supply with good Materials, even them who did not use them. But many garden'd with Covetousness have lost the benefit of these Labours; such [we mean] as not only wickedly take plurality of Benefices with cure of
Souls

^u Here I follow Sir *H. S.*

^x See the next Constitution.

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Souls from the Hands of Prelates, but seize upon them by their own Authority with Violence in a damnable manner, and by wicked Contrivances and Evasions retain them without the γ Key of Dispensation belonging to the Apostolical See. The Evils which from hence arise to the Church are unspeakable; for her Honour is tarnish'd, her Authority annull'd, the Faith of *Christ* is demolish'd, the Hope of the Poor is vanish'd and gone: Because they see the Mouth of the rich and powerful open'd for the swallowing of every Benefice that is like to be vacant. A wretched ignorant Sinner boasts himself Rector, he does not receive, but steals what is not his own. Disputes, Scandals, Animosities arise among the rich. 'Tis upon this account we fear that the Divine Wrath flames against the Men of these Kingdoms, and the Sins of some bring Vengeance upon all. And we fear the like, or worse for the future, unless God's Mercy cure us by wholesome Correction. Desiring therefore to cure this almost incurable Plague, and exercise our Office with all our might, following the Constitution of the said z Legate, and giving it farther supply, we ordain, that Prelates do with sincerity and diligence inquire into the past Transgressions committed before this Constitution of ours in relation to plurality of Benefices with cure, and those who do not reside in their Benefices as they ought, or not take that holy Order which the cure of the Benefice requires; and that they cause the Statute of the General Council in these respects to be observ'd. Let Archbishops also effectually inquire concerning the Premises in their Provincial Councils, and correct the

γ Here our Legate betrays his *Roman* sincerity; as if a Dispensation from *Rome* could cure the Evils of Pluralities against which he so horribly declaims.

z See Const. *Otto* 12 and 13. 1238.

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the negligent as they are bound to do; since they must give account therfore before the severe Judgment-seat of God. We ordain, that for the future, when any one is presented to a Benefice with cure of Souls, or when the Collation of such a Benefice is to be made, the Prelate to whom that Office belongs do make diligent enquiry into the Life and Conversation of the Person presented or to be instituted, and the other particulars which the Laws injoin; and let him make strict enquiry, whether the Person presented or to be instituted have other Parsonages, or Benefices with cure of Souls; and if he have, whether with, or without Dispensation. If he affirm, that he hath [a Dispensation] let him take care that it be exhibited to that Prelate within a time fix'd by him; otherwise let him not afterwards be admitted. And if he have been instituted, let his Institution be null. When the Dispensation is exhibited, let the Prelate carefully consider, whether by virtue of his Dispensation he may obtain another Benefice, or other Benefices with those which he already hath; and if he find that he hath, or had several Benefices with cure without Dispensation, let him by no means be admitted to that, which is now in dispute. The same is to be observ'd, if the Dispensation when exhibited does not extend to Benefices to be hereafter obtain'd, but already obtain'd; unless in this case the Person to be instituted take a corporal Oath, that when he has Possession of the Benefice, to which he is now instituted, relinquishing the other Benefices which he had before, he will not at all meddle with them from that time forward by himself, or by any other. And if he do, let him know that he is (beside the blemish of Perjury) *ipso jure* depriv'd of whatever [Benefices] he had, or might have had. After any one hath

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hath been instituted according to the Premisses, let the Institutor give solemn Notice forthwith to the Prelates of the same Kingdom, in whose Diocese his former Benefices were, as also to the Patrons thereof concerning what hath been done, that they may dispose of the Benefices belonging to them. And farther, let him write down the Names of the Benefices, and publicly notify them in the Provincial Council next coming, by which it may appear what orders have been taken about the Benefices, and whether the Person instituted spake truth, who said that he had no other Benefices. If the instituting Prelate do otherwise, let him revoke the Institution within a Month; or else be suspended from collating and instituting to Benefices belonging to him till he shall revoke it; the right therby devolving to the next Superior. And if notwithstanding this he does concern himself in these Matters, let him be suspended from entring into the Church. And whereas guilt lies in the Face of him who commits a Crime which he has himself condemn'd, we detesting this mark of Infamy (which the ^a Apostle declares ought to be avoided) do strikly forbid a Prelate who refuses to admit a Man presented to him for ^b want of holy Orders, to confer the same Church on another who labours under the same defect; lest he seem to have accepted the Person, rather than to have lov'd Justice: And if he do this, let his Collation or Institution be *ipso facto* null and of none effect at all.

^a 1 Cor. ix. ult. says *J. A.* but I rather think *Rom.* ii. 3.

^b He speaks, says *J. A.* after the old Canon Law, according to which none but a Subdeacon at least could be Rector; but at this Day it is sufficient that he be a Clerk. *J. A.* wrote while *John Stratford* was Archbishop of *Canterbury*, as he says in his Gloss on this Chapter.

of Othobon. MCCLXVIII.

30. The Fall of Man from his Dignity has given such a loose to his Desires, that the Edge of Reason being blunted, and the Rod of our Anger, which was ordain'd against Vice being broken, nothing is thought wicked that can satisfy our Covetousness which grows by being gratify'd. This is to be pity'd in the Laity, so call'd, because left to vulgar Employments: But in those who have the Lord for the Portion of their Inheritance, who are to guide and govern others, it is the more bitterly to be lamented, as the Guilt of it is more heinous, the Toleration of it more dangerous. Of all the Inventions of Men against their own Souls, what most of all confounds both divine and human Laws we have found to be this, that whereas every single Church ought to have a single Rector, according to Reason and the Statutes of the Law; yet some unreasonably and in contempt of Right, having no other colour for seizing several Churches, and making haste by any means to be rich procure vacant Churches to be held by them in *Commendam*; sticking by the words, not the sense of the Law which sometimes permits one Church to be held by Tithe, another in *Commendam*. And whereas the right of *Commendam* was introduc'd by the Law (understood in a sound Sense) not by way of Command, but Permission
for

^c This Practice seems to have begun in the middle of the ninth Century. See *Caus. 21. Quest. 1. c. 3.* But the Bishop, with consent of the Patron had hitherto the granting of them: And it was done chiefly in relation to lesser Benefices. And tho' the Constitution supposes the Benefices, while under *Commendam* to be vacant: Yet it seems a Question whether they were not in some sense fill'd by this means: For no Lapse was incur'd while the Church was under *Commendam*. Why none but Bishops are now permitted to take or hold by *Commendam*, must be resolv'd I conceive, into the Will of our former Kings, Queens, and Archbishops.

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for the benefit of the vacant Church; these Men for their own Profit take not only one but many Churches to be dissipated by *Commendam*. Among the many Perils proceeding from this Plague, we observe the waste of Church Goods and a contempt of spiritual Things to be the certain Consequence of it; while these Wretches rake together what ought to belong to others; and spend in Luxury and Pomp what was design'd to be ^d Alms for the Poor: These Sins do exceed in proportion Thefts and Rapins ^e and *even the sacrificing of a Son in the fight of his Father*, according to the Testimony of the divine Law. Now we, as we are by Office bound, consulting the health of Souls, and the good and indemnity of Churches with all possible care, do wholly revoke all *Commendams* of Churches hitherto made, and decree them to be null, unless the *Commendam* were made for the advantage of the Church, and of one only; commanding them to whom the Collation or Presentation of them belongs, that they collate or present to them within two Months after the Publication of this Constitution; or else that the Collation of them devolve to the Apostolical See. And we forbid all *Commendams* of Churches for the future, unless a just and lawful Cause require it to be done. And to prevent all Tricks and Fallacies

^d All the Oblations and Tithes are sometimes call'd Alms, and all the Lands holden by the Church are said to be held in *Free-Alms*, that is without any secular Service to the Lords. Farther, a Resident Rector ought to be, and commonly is the best Friend to the Poor. One fourth part of the Benefice was of old deputed for the use of the Poor. This was one pretence for Infeodation and Impropriations of Tithes: For the Infeodator, or Impropriator always pretended to take the Poor's share, that so it might be more faithfully dispens'd, than by the Incumbent.

^e *Eccles.* xxxiv. 20.

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Fallacies we ordain, that no Church be taken in *Commendam* for above a Year by any one that hath a Benefice with cure; and that more Churches than one be given to no one in *Commendam*. And if any *Commendam* be granted by any one to any one in the places belonging to our Legateship contrary to this wholesom Statute, we decree it to be null *ipso jure*. Let the Bishop who grants a *Commendam* contrary to the Premises be *ipso facto* suspended from collating or presenting to any Benefices till he revoke it.

31. The Eminence of the Pastoral Chair wants many divine Graces for its Support, for the Merit of the Pastor in the sight of God, and for his better instructing the People. Among other Provisions of the holy Canons concerning the Election of Pontifs, this deserves the first place, that the Person to be advanc'd may be so far as possible without blemish. We therefore, as we are by Office bound with all possible diligence, correcting the ^f Ignorance, Neglect and Dissimulation which happens, or is practis'd in the Confirmation of [Bishops] elect, do ordain, and in virtue of holy Obedience injoin, that when the Confirmation of an Episcopal Election is demanded, among other things concerning which Enquiry ought to be made according to the Institutes of the Canons, let it most strictly be examin'd whether the Elect had not before his being elected more Benefices than one with cure of Souls; and if he had, whether he was dispens'd with, and whether his Dispensation, when he shews it, be a true one and extend to all his Benefices. And if he to whom the Confirmation belongs do upon a Scrutiny find the Elect to be deficient in any of the Premises, let him by no means give him Confirmation.

^f This is a severe Reflexion upon the Archbishops, and which they wou'd never have pass'd, if ther had
R been

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been any freedom of debate in these Legatin Councils; especially because the Bishops were affected by it, all at least that came to their Sees since the advancement of the present Archbishops, and *Boniface* had now sat in the Chair of *Canterbury* twenty four Years. These *Romans* ever carried it insolently toward our *English* Prelates.

32. The unquenchable thirst of Ambition chuses neither *Mary's better part*, nor the sedulity of *Martha* in ministring; but takes every by-way to Dominion, thro' right and wrong. We are inform'd, that sometimes a Man in order to climb into a vacant Church, & lest he should be defeated of his Desire by reason of his having a plurality of Benefices, resigns those Benefices, or rather deposits them in the Hands of him to whom the Collation of them belongs, on ^h Condition that if he be not elected, he may resume them. Now to countermine this Collusion by an obstacle well pleasing to God, we strictly forbid such Benefices to be restor'd to him that so resigns them, for the future, or to be granted to him *de novo*; but that they be canonically disposed of to other Parsons as vacant Benefices. And if they, or any of them be so restor'd or granted again to the Resigner, We decree the Restitution or Concession to be of none effect: Let him who knowingly collates, or institutes the Resigner into the Benefices so resign'd against the Premisses, if he be a Bishop, be suspended from the use of his Dalmatic and Pontificals; if an inferior Prelate, from his Office, till he revoke it.

g A Pluralist was incapable of being elected to a Bishoprick without a Dispensation from the Pope, by a Decree of *Gregory* the Ninth, *Decretal. L. 1. Tit. 6. c. 54.*

^h Here I follow *J. A.* who says, some Copies had *Protestations*, Sir *H. S.* has *Fictions*.

33. Because

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33. Because when Presentation is to be made to a vacant Church, he that is to be presented, as we hear, very often first agrees with the Patron to pay him a certain Annuity out of the Goods of the Church, and so is presented by compact: We intending to obviate this Simony, and waste done to the Church, do wholly ⁱ revoke all such Promises and Compacts, and forbid such to be made for the future; and decree, that if they be made, they shall be of no force. And we revoke all Pensions imposed on Parochial Churches, unless they who receive them are warranted by lawful Prescription, special Privilege, or some other certain Right ^k.

ⁱ Our present Lawyers allow such Covenants to be valid; but in this Age I conceive such Causes were not permitted to be brought into Temporal Courts.

^k 3. *A's Copy adds ab initio.*

34. The Almighty Lord, who does not forget Mercy in Anger, that he might be appeased by the Prayers, and Groans of the contrite will'd Temples to be built, where the faithful assembling and abstracting themselves from all outward things and retiring into their own Consciences, with their Senses shut may pacify the Anger of the just Judge by Oblations and Holocausts, and especially by the sacrifices of a contrite Heart, and Prayers which unite us to God, that Sinners may not be consum'd, but obtain Mercy: The Son of God hath shew'd by Word and Deed how acceptable this is to him, as God of all, when he affirm'd the Church to be his own House, and will'd it to be declar'd not a House of Merchandise, but of Prayer, insomuch that with a Scourge he drove the Chapmen out of the Temple, tho' they sold there what was necessary for Sacrifice; plainly shewing the detestable Sin of them who

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keep Markets in Churches, and traffick in the House of God, and making it a Den of Thieves and Devils: For in their traffick they deceive, or intend to deceive each other; therefore we strictly forbid any Man to hold a Market, or exercise any Negociation in any Churches of our Legateship; firmly injoining Archbishops, Bishops, and other Prelates of Churches, in virtue of holy Obedience, that they cause it inviolably to be observ'd by all, by Ecclesiastical Censure.

35. The just and merciful God, who desires not the death of a Sinner, but that he be converted and live, sometimes lays temporal Punishments on Men, that he may not eternally condemn them. Therefore, when our Sins separate between God, and us, he sends Diseases, Plagues, Famines, and Wars, and many other Evils for the affliction of Sinners. Upon this account the famous Kingdom of *England*, which us'd to enjoy Peace, is miserably at this time wasted with Feuds, Dissensions and Wars. And to the shame and grief of all Christian People, the *Holy Land*, in which the Son of God wrought the Salvation of Man, [God] hath deliver'd into the Hands of those who are Enemies to the Christian Name; that having shew'd us, that by reason of our Sins we are unworthy to dwell in so holy a Country, he may employ Christian People in fighting his Battels to their own Salvation. But whom the Lord loveth he chasteneth, and when he has been justly angry, he will remember Mercy; so as after Plagues and other Evils, to give Comfort to the afflicted, Soundness to them that languish, and Unity to them that are at discord: Therefore the old Fathers ordain'd with a provident Deliberation, that publick solemn Processions should be made at certain Seasons, at which the Faithful being under God's Visitation, and warm'd with Devotion and

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Love might provoke his Mercy by their Prayers, and praise him for Benefits receiv'd, to wipe off the Imputation of Ingratitude. In an emulous Imitation hereof we ordain and charge, that one publick solemn Procession be made every Year¹ on the Morrow after the *Ottaves* of *Pentecost* in all the Countries of our Legateship, in which all the Faithful, both religious and secular may thank God for the restoring of Peace, pray to the Lord, that he turning away his Wrath would direct the Government of these Kingdoms, and Countries, grant Peace to the Faithful, continue and confirm the Peace already restor'd; and give back the *Holy Land*, (which he dyed with his own Blood) to the Worshippers of *Christ*, to the Glory of his Name.

¹ We should call it *Trinity Monday*. But the Festival of the Holy Trinity was not yet settled by the Pope. It had been kept from the time of Pope *Alexander* the Third (if not before) in some Churches on the *Sunday* after *Pentecost*, in others on the *Sunday* next before *Advent*, but in the Church of *Rome* not at all; as Pope *Alexander* informs us; and in the Year 1305 it was made an establish'd Feast, as it stands in our present Kalendar by *Benedict* the Thirteenth. See *Alexander's Decretal*, L. 2. Tit. 9. c. 2.

36. The Preservation of the Honour of the Church produces and increases the Unity and Merit of the Catholic Faith, procures Grace and Peace from the Lord to Christian People, and makes the Prayers of the Just full of Propitiation, and worthy to be heard by our merciful Father, in proportion to that Reverence they bear to Holy Mother Church. But from Differences oppositi-
ons arise so as to divide Faith and Unity. The Contempt of Religion pulls down the Anger of the Omnipotent on a People whom he hath put out of his Protection, and who have shipwreck'd

MCCLXVIII. *Legatin Constit. &c.*

themselves thro' their own inordinate Desires, and render'd the Mercy of God inexorable. Therefore we call upon the Archbishops, and Bishops who are plac'd by the Lord to keep watch over his Flock, and charge them in virtue of holy Obedience, that they be very diligent in defending the Churches, and Ecclesiastical Persons, and in reforming of them; and employ their Pastoral care for the Restoration and Preservation of both. And let them observe, and cause to be observ'd the Constitutions of the Fathers, and of the *Roman Pontifs*, against them who attempt to obstruct the Jurisdiction and Endeavours in these respects, under the Penalties exprest in these Constitutions. But that the Ignorance of these Constitutions may not be the occasion of the neglect of them, we charge all Archbishops, and Bishops, Abbots, and Priors exempt, as also the Chapters of Cathedral Churches, that they all take a Copy of the Constitutions publish'd in this Council; and let the Archbishops and Bishops cause them to be read every Year word for word in their Synods.

There are fifteen or seventeen Constitutions (as they are differently divided by Sir H. S. and J. A.) over and above the foregoing; but I translate them not because they wholly concern'd the Regulars or Religious; and if we may believe J. A. were never read in open Council, and indeed it is evident, that the Legatine Constitutions end with the Injunction for their Publication.

A. D.

A. D. MCCLXXIX.

PREFACE. *Archbishop Peckham's
Constitutions at Reading.*

FRIARS were now in great Reputation, Robert Kilwardby was one of the black sort, he succeeded Boniface in the Archbishoprick of Canterbury, and founded the House of Black Friars, London: Upon this Robert's Resignation John Peckham a Grey, or Franciscan Frier was his Successor by virtue of the Pope's Provision, who made Kilwardby Cardinal, and Bishop of Porto, and then placed Peckham in his room at Canterbury. To give my Reader a true view of the Spirit of this Prelate, I will present him with the Substance of a Letter which he wrote to Edward I. then King of England, viz. A. D. 1281. "He professes Obedience, and owns his great Obligations to the King: But declares that he could not be bound to disobey Laws which subsisted by a divine Authority by any humane Laws, or Oaths: He observes an old Rivalry between the Ecclesiastical and Secular Powers, and speaks of the Churches being oppress'd contrary to the Decrees of the Pope's, the Statutes of the Councils, and the Sanctions of Orthodox Fathers, in which there, says he, is the supreme Authority, the supreme Truth, the supreme Sanctity (he forgot the holy Scriptures) and no end can be put to Disputes, unless we can submit our Sublimity to these three great Laws: For out of these the Canons (as he adds meaning the Canon Law) are collected. He undertakes to prove the Authority of these from Matt. xvi. 18. Deut. xvii. 9---11, 18, 19. Mat. x. 20. xviii. 19, 20. and then goes on in this manner. Constantine King of England, and Emperor of the World granted all that we ask, and particularly, that Clerks should be

R 4 "judged

PREFACE. Pecham's *Constit.* &c.

“ judged by their Prelates only. Wihtred King of
 “ Kent granted the same, as is plain from the Coun-
 “ cil held by Archbishop Brihtwald, A. D. 794.
 “ This Knute declared in his Laws, King Edward
 “ promised to keep the Laws of Knute; and King
 “ William, to whom St. Edward gave the King-
 “ dom, granted that the same should be observed.
 “ He intimates, that these Oppressions began under
 “ King Henry I. but proceeded to a greater height
 “ under King Henry II. He gives the Epithet
 “ damnable to the Articles [of Clarendon] because
 “ Archbishop Thomas suffered Banishment, and
 “ Death for not subscribing them. He tells the King,
 “ he was awed by his Conscience to write this Let-
 “ ter, that no Oath could bind against the Liberties
 “ of the Church; and farther says he, we absolve
 “ you from any Oath, that can any ways incite you
 “ against the Church. He begs of the King to learn
 “ this Lesson, for which so many of the holy Fathers,
 “ and the last but one [of my Predecessors] the Lord
 “ Boniface, our Mothers Unkle, did so earnestly
 “ labour, and to which we believe you inclin'd unless
 “ evil Counsellors deceive you. Dated from Lam-
 “ beth, 4. Nones of November 1281.

If we could depend on the last Clause of this Let-
 ter, it would confute the common Tradition concern-
 ing this Archbishop, viz. that he was of obscure Pa-
 rentage. If Boniface were his Mother's Unkle, he
 had certainly been related to the King himself: But
 I conceive, that instead of nostræ Genitricis, it
 should be vestræ Genitricis, especially because he
 gives her the Title of Illustrious: And it has al-
 ready been observed, that Boniface was Unkle to
 Elenor Queen of King Henry III. King Edward's
 Mother. But if this Archbishop were of mean Birth,
 yet he raised a Family, for it is agreed, that he left
 a very large Estate to his Kindred, notwithstanding
 the Oath of Poverty, which he (as a Friar) had
 taken

Peckham's *Constit.* &c. MCCLXXIX.

taken. And yet he was one that endeavour'd to have it thought, that he never forgot his Order : For he ver styled himself Friar John.

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Archbishop Peckham's Constitutions at Reading.

Sir H. S. vol. 2. p. 320.

HE call'd a Provincial Synod at Reading, and after having read the Constitutions of Othobon, as that Legate had injoin'd, he thus descants on the 29th of those Constitutions, viz.

1. Ye have heard, my Brethren, the Tenour *Lat.* of this Constitution, ye know the Canons of the holy Fathers publish'd in this respect in the Council of *Tbolouse*, and *Rome*, and the Decree of *Dionysius*, all which forbid a plurality of Benefices with Cure to one Man; requiring a single Priest for every Church, as did the *Lateran* Council under Pope *Alexander* the Third, and the other General Council there under *Innocent* the Third. Ther is this addition in the last Council, that the first is vacant by accepting a second, and that the first may be conferr'd on another by the Patron; and if he do it not within six Months, not only the Collation of it devolves to another, but [the Clerk] may be forc'd to assign out of his own Goods, for the use of the Church to which the Benefice belongs, as much as hath been received since the voidance thereof: Next came the present Constitution of *Othobon*, which he thought sufficient against Evils past and to come; for in one Case he decrees the Institutions to be null
ipso

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ipso jure, in another Case he lays an Oath on the Person to be instituted; and in case of Perjury deprives him of all Benefices which he had, or might have had; and suspends the Bishops acting against this from collating of Benefices, till they revoke the Institution made contrary to this Constitution. Yet ther has been no good Effects of all these Provisions labour'd with so much zeal and diligence: For ther are some, who by right and wrong accumulate Benefices, as if nothing of this sort had been done by those who were before us. And [the Bishops] themselves not fearing the Penalties of this Constitution, nor others contain'd in the Canons confer innumerable Benefices on such as have no Dispensations: All which has been often told the chief Pontif, who with the utmost Abhorrence of it injoin'd us with the lively Oracle of his own Voice to obviate this Evil with a speedy Reformation, and to coerce such Presumers with all possibly Severity. And tho' our Metropolitcal Power be sufficient to suppress all these Evils; yet we affecting to proceed with Lenity rather than Rigour (tho' we cannot dissemble the Perverseness of these Doings, the Mischief and Scandal that attends it, and the Cry that is come to the Ears of our Superiors of a Crime that so much sullies the Beauty of the Church): since the Criminals are many, and Example is necessary, and the Authority of the Apostolical Precept incites us, having invok'd the Divine Assistance, which is now with us, we set our helping hand to this Affair, decreeing according to the form of the ^m General Council, that all those Benefices with cure obtain'd by them *de facto*, who have no Dispensation from the Apostolical See for such Plurality, become vacant *ipso jure* by the reception of

^m *Later. Conc. A. D. 1216. 29. c. de multa. Decretal. L. 3. Tit. 5. c. 28.*

at Reading. MCCLXXIX.

of the last Benefice which they took. And tho' according to the rigour of the Constitution of the Lord *Othobon*, he that so receives several Benefices be depriv'd of the ⁿ last too, because the Institution is decreed to be null *ipso jure*; yet we taking care not to add rigour to rigour, and having an Eye both to the Constitution of the General Council, and of the Lord *Othobon*, neither of which deprives a Man, both of those which he had before obtain'd, and of the last too. (For the General Council only takes away those before obtain'd, yet reserves the last; but the Constitution of *Othobon* decrees the Institution to the last Benefices to be *ipso jure* null, yet does ^o not *ipso jure* deprive him of one before obtain'd): we mingling Mercy with Severity do permit, that he who has several Benefices with cure, without Apostolical Dispensation, be content with that which he obtain'd last according to the Tenour of the General Council; unless he rashly contend to retain that Benefice which he had before; in which Case we judge him unworthy both of the first and last, or of that which he took between the one and

ⁿ This is to be understood of a Clerk who had not only one, but two Benefices at least before he took his last; for the Bishop collating to the last is to enquire, whether he, that is to be collated *have more Personages, or Benefices with cure*: These words do not affect him who had but one Benefice before: It is *L*'s Observation. And in truth Archbishop *Peckham*'s Constitutions are not accurately worded, tho' he had been Auditor of Causes in the Pope's Palace. But tho' *Othobon*'s Constitution makes mention of Benefices (as does also *Ordinarii c. 3. Tit. 16. Lib. 1. Sext.*) in the plural number, yet the *Lateran* Council does not: therefore *L*. is too hard on Archbishop *Peckham* here.

^o Certainly, if the *Lateran* Council under *Innocent* deprives the Clerk of his Benefices before obtain'd, of which ther can be no doubt, so does *Othobon* too, for he expressly inforces the *Lateran* Council.

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and the other, and of any at all; and that they be rather *ipso jure* vacant. And we sentence him to be perpetually depriv'd of all, so far as he in Fact keeps them in Possession. And we reserve to our selves the Collation of such Benefices made void in manner aforesaid, and devolv'd to us by the neglect of Prelates and Chapters: And we especially reserve to the chief Pontif the right of collating to those Benefices, which have been so long vacant by the like neglect, and are devolv'd to his See, as being his Minister in this respect; decreeing whatever Innovations made by any superior or inferior Prelates, or any Clergymen whatever by way of Collation, Exchange, or Presentation in relation to the said Benefices heretofore void, to be henceforth null and of none effect. And we denounce to the said Detainers by our selves, by our Fellow Bishops, and by their Confessors; and our will is, that it be so denounc'd in times coming, that they may not be promoted to the Dignities of the Church, till they have purg'd themselves from this Crime: as that if they be promoted they cannot without danger minister in them, nor be sav'd in the Day of Judgment, nor can they at present receive Penance to their own Profit, till they have renounc'd the Benefices of which they keep Possession. And let them make Satisfaction, if they can, for the Fruits of the Church consum'd by them, since they are Invaders, not Pastors, Robbers and Deceivers of wretched Souls, whom they can neither bind nor loose. We also decree those Confessors, who in giving Penance to such Clerks do not injoin them to restore the Fruits of the injur'd Churches, or to make Satisfaction for them, to be unskilful and Deceivers of the Souls of such Clerks. ¶ And

we

¶ It is strange that *L.* should deny that this Archbishop
ever

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ever declar'd those excommunicated, who absolv'd Pluralists by any Provincial Constitution: He does expressly say that Excommunication was not decreed against them, in the Constitution, *Beneficia vero*, immediately following *audivistis*. Now this is the very Constitution meant by *L.* beginning at *Beneficia vero*, but in this Translation, *And we reserve to our selves*. For *L.* took this to be a distinct Constitution from the foregoing, see *L.* pag. 339. at the word *Dudum*, and ther can be no doubt but such Confessors are here declar'd excommunicate.

we inhibit them under pain of Excommunication from extending their Hands for the Absolution of such Clerks as are contumacious in detaining such Benefices. Therefore cutting off this cancerous Ulcer with the Sword of *Anathema*, we decree and confirm it with a perpetual Stability, that whoever for the future shall accept or obtain several Benefices with cure of Souls by Institution, or Title of *Commendam*; or one by Institution, another by *Commendam* without Dispensation from the Apostolical See, be depriv'd of all Benefices so obtain'd, and *ipso facto* excommunicated, and not receive the Grace of Absolution but from us or our Successors, or from the Apostolical See; except [they be held] in that manner, which the 9 Constitution of *Gregory* publish'd in the Council of *Lions* permits. And that we may have notice of Benefices becoming vacant by this, or any other means, we injoin and command you, my dearest Brethren, in virtue of Obedience, that by your selves, your Officials, Archdeacons, or Deans ye cause to be written down the names and number of Churches, and Rectors, with their Names and Surnames; so that a true account may be had

9 That is to no one unless a Priest, but one Benefice, and but for six Months, and upon Condition it be for the good of the Church to be so holden. Council at *Lions*, *A. D.* 1273.

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had of the Persons, and the time of their Collations, by what Title they hold them, whether by Institution, or *Commendam*, of what Age the Rectors who detain such Churches are, in what order, whether they are benefic'd in more than one Church; whether they are dispens'd with for Plurality; who are their Patrons, and what their Names; of what value every Church is, according to the ^r *Norwich* Taxation: And let the Bishop of every Diocese transmit Instruments clearly containing all these Particulars to us in the City of *London* on the *Octaves* of *St. Hilary*, at which time and place, by the Favour of the Most High, we shall again be assembled to his Praise. And they may justly fear to be punish'd as Fallacies, who shall commit any Fraud in the account before injoin'd to be given to us, either by concealing any thing necessary for our Information, or by mingling any Falsity with it (which far be it from you) or by using any Artifice whereby the full truth and knowledge of the Premises may not come to us ^f.

^r In the Year 1254. the Pope granted three Years Tenth to King *Henry* the Third of all the Spiritualities in *England*, and made *Walter* Bishop of *Norwich* Taxor. This Taxation was a Precedent for others till 1291. when a new one was made.

^f Look back to the last Note.

2. That the Constitution made in the Council of *Lions*, may be entirely observ'd both as to the Words and Sense, the chief Pontif hath decreed, as we also decree, that Benefices held in *Commendam* in any other manner, or obtain'd under a cover of *Commendam* for any longer time than the said Constitution of *Gregory* permits; as also those that are held under pretence of Custody, (which
6 the

at Reading. MCCLXXIX.

the said Pope esteems not to differ from * *Commendam*) in another manner, or for a longer time than the said Constitution allows, as also such as are collated to Men under twenty five years of Age, unless they have " a Dispensation or some lawful Cause, are vacant *ipso jure*. And we reserve to our selves, and to the Archbishop's See the Collation of such Benefices as are devolv'd to us and it, thro' the negligence of Prelates and Chapters; decreeing whatever Innovations, &c. *As in the first Decree, after the Reservation of Benefices long vacant to the See of Rome.*

* Therefore I have omitted the Word *Custody* in the foregoing Constitution, when distinguish'd from *Commendam*.

" Boniface the 8th in his Decretal (*Sext. L. 1. Tit. 6. c. 34*) complains that the Constitution of *Lions* which forbade Men to accept a Benefice while under twenty five years of Age, discourag'd many from entering into Orders; because in many Places they had no means of subsisting themselves in the Schools, but by the help of Parochial or other Benefices; therefore Boniface allows a Subdeacon to take a Benefice, and grants him seven years to qualify himself for the Orders of Deacon, and Priest, by the Dispensation, or Permission of his Superior.

3. Since an unknown Evil cannot be avoided, and ther are many Sentences of Excommunication with which wicked Men are smitten in the Councils of the Fathers; lest thro' Ignorance Men fall into this Ditch, we charge all Priests of the Province of *Canterbury*, that on the *Lord's-day* immediately after every Rural Chapter they explain to the People the following Sentences of Excommunication. 1. Let all be excommunicated by the Authority of the * Council of *Oxford*, holden by *Stephen* of holy Memory Archbishop of *Canterbury*, who maliciously deprive Churches of their

* See Constitution 1. of *Stephen Langton*, 1222.

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their Right, and infringe or disturb their Liberties contrary to Justice; by which we are given to understand that all are excommunicated, who obtain Letters from any Lay-Court to obstruct Ecclesiastics in such Causes, as by the sacred Canons belong to the Ecclesiastical Court. 2. Let all be excommunicated who injuriously disturb the Peace of our Lord the King, and the Kingdom, and unjustly endeavour to detain the Rights of our Lord the King, by which we understand not only such as raise Wars, but all publick Robbers and Highwaymen, and such as rashly oppose the Justice of the Kingdom. 3. All those who give false Testimony, or cause it to be given, or produce such Testimony to obstruct lawful Marriage, or to procure any one to be disinherited. 4. All Advocates who maliciously obstruct true Marriage from taking effect by any Objections; or who procure Ecclesiastical Causes to hang long in suspense
in

7 Archbishop *Peckham* was oblig'd to revoke the first, seventh, and ninth Article of these Sentences, as appears by the following Memorial publish'd in Latin by *Prynne*, *Riley*, and *Brady*. " *Memorandum*, That the venerable
" Father *John* Archbishop of *Canterbury* came before
" the King, and his Council in the King's Parliament
" at *Michaelmas*, in the seventh Year of the King's
" Reign, at *Westminster*, and did declare and grant, that
" of the Statutes, Provisions, and Declarations, which
" were publish'd by him at *Reading* in the Month of
" *August* in the same Year, among certain Sentences of
" Excommunication which the said Archbishop there
" publish'd, 1. That that Clause in the first Sentence
" of Excommunication be blotted out and esteem'd as
" null, which makes mention of such as obtain the
" King's Letters to obstruct Proceedings in Causes,
" which by the sacred Canons [belong to the Ecclesi-
" astical Court.] 2. That the King's Ministers be not
" excommunicated, tho' they do not obey the King's
" Mandate in not taking up Excommunicates. 3. As to
" such as invade the Manors of Clergymen, that the
" Punishment

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“ Punishment assign’d by the King be sufficient in that
 “ Case. 4. That he forbid not the selling of Viſuals
 “ to the Archbishop of *York*, or to any other coming to
 “ the King. 5. That *Magna Charta* be taken off from
 “ the Doors of Churches. He alſo declares and grants,
 “ that no Prejudice be done for the future neither to
 “ the King, or to his Heirs, nor to his Kingdom of
 “ *England* by means of the other Articles contain’d in
 “ the Council of *Reading*.

It is evident, that at this time King *Edward* I. opposed not only the Claims of the Church, but the Liberties of *England*; and it is well known how hardly he was afterward brought to confirm the *Magna Charta*, and would have defeated his Confirmation of it by Reserves and Salvos: Yet he does in effect reinforce all these Heads of Excommunication. Const. 10. at *Lambeth*, 1281. And Archbishop *Chicheley* renew’d these Excommunications 1434. It ought particularly to be observ’d, that when all the Barons and great Men of the King’s Council, and Parliament sided with the King against *Magna Charta*; yet Archbishop *Peckham* put this *Magna Charta* on the Church Doors, and did not consent to the pulling of it down, till he saw the Council, and Parliament as well as the King averse to this his bold Attempt.

in any Case whatsoever contrary to Justice. 5. All those who for lucre, ill will, or favour, maliciously ^z charge with Crimes such as have preserv’d their Reputation with the good and grave, that so they may be injoin’d a Purgation or otherwise aggriev’d. 6. All those who in the vacancy of a Church maliciously oppose, or cause to be opposed the Inquest concerning the right of Patronage, in order to defeat the true Patron of the Collation, for that turn at least. 7. All who [*vide supra*] maliciously neglect to execute the Mandate of our Lord the King for taking up Excommunicates, or who hinder their being taken, or unjustly procure their Enlargement contrary to the

^z Who charge Men with Crimes, by which they may be defam’d among the good and grave, says *L’s* Copy.

S Décrée

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Decree of Ecclesiastical Discipline. 8. All those who take any thing for obstructing Peace between Parties that are at Law, till they restore what was taken to the Giver, are excommunicated by the Council of *Othobon* of holy Memory. 9. As are also [*vide* *] who take away, consume, or injuriously lay their Hands on any thing that belongs to the Houses, Manors, Granges, or other Places of Archbishops, Bishops, or other Ecclesiastical Persons, contrary to the Will of them, or their Stewards: Nor can they be absolv'd from this Sentence till they have made competent Satisfaction for the Wrong. 10. They are excommunicated by him, who by violence drag away one who being a Criminal, flies to a Church, Church-yard, or Cloister, or who hinders him from necessary Victuals, or who carry away, or cause to be carry'd by violence things belonging to other Men deposited in those Places; or who justify the carrying away of such things by taking it upon themselves, tho' done by others of their Family, or who publickly or privately advis'd, or consented to it. 11. They are excommunicated by all the Archbishops, and Bishops in *England*, who transgress the great Charter of our Lord the King, which Sentence has often been confirm'd by the Apostolical See.

* Ye have heard, dear Brethren, and Fellow-Bishops, the Articles by which the Sentence of Excommunication is incurr'd *ipso facto*, by the Councils of the sacred Fathers; ther are other Articles by which Bishops, and Prelates are *ipso facto* suspended by the same Councils, sometimes from their Episcopal Habits, sometimes from their Office, sometimes from the Power of collating; and we fear lest some of you have fallen into [the Censures of] these Constitutions; and that you have celebrated

* This Paragraph is not in *L.*

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celebrated and perform'd your Offices while under these Bonds, and have incurr'd an Irregularity in this respect. But whatever has been done by you in times past, we exhort you on God's part, and injoin you in virtue of Obedience, that for the future ye religiously observe, and cause to be observed the Statutes of the said Councils, and our Statutes publish'd in the beginning of this Promulgation; lest ye bring on yourselves the Anger of God, and Canonical Vengeance. And lest any should be excused by Ignorance, we will that this following method be observ'd in relation to all things that have been ordain'd in this Congregation. Do ye, my Brethren, and Fellow-Bishops cause all these to be publish'd by your selves, or by your Archdeacons in your Synods. And cause the Constitutions of Lord *Othobon* concerning the ^b general Baptization at *Easter*, and *Pentecost*, and the ^c Extracts from the four Councils mention'd in the beginning of our Session in relation to divers Articles on which the Sentence of Excommunication is incurr'd *ipso facto*, to be publish'd in every Church, great or small, on the four *Sundays* ^d next after the four principal Chapters. But let the Constitution of the Lord *Othobon* against Concubinarie

^b See Constitution of *Othobon* 1. 126³.

^c It seems plain, that these Words refer to something said by the Archbishop at the opening of the Synod, not extant in any of our present Copies: The present beginning seems abrupt, and supposes all *Othobon's* Constitutions down to the 29th to have been read before it was spoken.

^d The last Constitution but one in *L.* is attributed to this Archbishop, and is said to be a part of this Constitution, and orders the general Excommunication to be publish'd on the *Sunday* next after *Michaelmas*, and *Mid-lent Sunday*, *Trinity Sunday*, and *Sunday* after *Lammas*, with Candles lighted, &c. yet this was before Pope *Benedictus's* Bull for observing the Feast of the Holy Trinity.

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be publish'd in the four principal rural Chapters, the Laity being first dismiss'd. We charge that what has been ordain'd, or added to the said Councils by us be read twice every Year in the Ears of all at the two general Chapters of every Archdeaconry. And we command the Charter of our Lord the King concerning the Liberties granted to the Church, and Kingdom, to be fix'd up in some publick place within every Cathedral, and Collegiate Church, fairly and plainly written, that it may be open to the Eyes of all that come in: And let it be renew'd at the end of the Year, on the Eve of *Easter*, or *Pentecost*; that the old Copy being taken away, a new one fairly written may be put in its place.

4. We think fit to explain what is provided in * this present Constitution concerning reserving of Children to be baptiz'd till the general Baptization at *Easter*, and *Pentecost*, out of our regard to that Statute, which seems to have been hitherto neglected, viz. that Children born within eight Days before *Easter*, and as many before *Pentecost*, be reserv'd to be baptiz'd at those times, if it may be done without danger; so that they receive † Catechism between the time of their Birth, and their being thus perfectly baptized, and that nothing but ‡ the Immersion remain to be perform'd

* It is evident this Constitution was publish'd immediately after reading *Ostobon's* first Constitution. *L.* modifies the words so as to make them serve his purpose the better; but the two other Copies represent the words as here translated.

† That is, the *Interrogatories*, Dost thou renounce, believe, &c. *L.* adds the Exorcisms, and all that precedes the Act of Baptization.

‡ *L.* here prefers Immersion before other modes of Baptizing; but seems to suppose it sufficient, that one Drop of Water falling on the Baptized from the Hand
of

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of the Baptizer; and that when St. *Peter* baptized three thousand, he sprinkled Water on many of them together: And he thinks it sufficient in such a case to say once for all, *I baptize you in the name of, &c.* It appears that in that Age, when the Child was like to die in the Birth, the Head, or Foot (if that first appeared) was baptized: Yet *L.* advises, that if the Child afterwards obtained a perfect Birth, it should be hypothetically baptized again, for greater caution. But if the Foot only was baptized, the Child was by this qualify'd to lie in holy Ground, as it might not otherwise do.

form'd on the day of Baptism. But let Children born at other times of the Year be baptiz'd ^h according to the old Custom, either presently as they are born, or afterwards at the Discretion of their Parents; not only on account of the danger of sudden Death, in which Children are liable; but for the simplicity of their Parents, who are apt to mistake in the form of Baptism, without taking notice of their Error.

5. Because Incontinency is a lamentable Disgrace to the Clergy, and a common Scandal, we charge the ⁱ Statute of the Lord *Othobon* against Concubinary to be rigidly, inviolably observ'd, and lest such should be excus'd by that Ignorance and Forgetfulness which this Vice occasions; we charge all ^k Archdeacons, in virtue of Obedience, and under pain of Suspension from Office and Benefice, which we pass against them in case they are wilfully negligent in this Point, that they cause the said Constitution distinctly, and openly to be rehearsed in the four principal rural Chapters every Year by themselves, or their Officials, or the

^h By the Priest: This Supplement seems necessary to render the last Clause more intelligible.

ⁱ See Const. of *Othobon* 8. 1268.

^k Bishops, *L.* but it is known, that Archdeacons were the Presidents of the quarterly Chapters, therefore I follow the two other Copies.

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Deans, or their Deputies, the Laymen being first dismiss'd. And our will is, that the Rehearsal be look'd upon as a Monition; that so when the Sentence of Deprivation, pass'd against them in the said Constitution, is executed upon them, they may not have to plead that they have not been monish'd. And if any one maliciously hinder the rehearsal of the said Statute, let him be under the Sentence of Excommunication *ipso facto*. If any ¹ Dean, or his Deputy neglect to rehearse these Statutes, let him fast every *Friday* in Bread and Water (unless Infirmary prevent) in virtue of Obedience, till he has caused it to be rehears'd in the next Chapter.

¹ The *Oxford* Copy here adds Archdeacon, and it is probably the genuine Text.

6. Whereas the Consecration of the Chrism is annually to be perform'd by the Bishop of every place according to the Sanctions of the sacred Canons, and the Chrism ^m consecrated by them annually is annually to be deliver'd to the Faithful, and what remains of the old Chrism to be burnt in the Church; let the Priests who preside in the Churches be bound to fetch the Chrism for every Church every Year from the Bishops of the Places ⁿ before the Feast of *Easter*, or as soon as may be by themselves, or by their Deacons, or Subdeacons, so that if any one attempt to ^o baptize, or to anoint

^m See the Consecrat. *Dist.* 3. c. 18. which contains a Decree attributed to Pope *Fabian*, A. D. 420. to this purpose. Sir *H. S.* has not this, and the following Canons; and it seems plain, that they were made in some other Council of this Archbishop. But since I find no certainty of the time and place; I have therefore posted them, as the *Oxford* Copy does.

ⁿ The Chrism is to be consecrated on *Mauudy Thursday*: 'Tis strange that two such solemn Days as the following should be appointed for this purpose.

^o Some of the Chrism was to be put into the Water in the Baptismal Font.

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noint the Baptized on the Crown of the Head with any other Chrism but the new, given him by the Bishop (unless in case of imminent Death) he manifestly passes a Sentence of Damnation against himself; yet some thro' gross Ignorance, which borders upon Craft or a Spirit of Contumacy, disobeying the Canons in this respect (which is not far distant from the Sin of Idolatry, and Witchcraft) reserve the old Chrism for two, or three Year, and damnably abuse it in Baptism, and other Sacrifices, neither receiving nor asking new, annually of the Bishops. We strictly forbid this for the future under pain of a Suspension; which we pass on the contumacious Transgressors. And the same we take to be understood in a sound Sense of the holy Oil of the Catechumens.

p L. owns he knows not what is here meant by other Sacrifices.

q This must be understood, as all other penal Laws in the mildest Sense, therefore I should suppose it meant of Suspension from Office, or Benefice; but L. says the least Suspension is that from entrance into the Church, which I should have judged the hardest of all; as being the Punishment of Laymen, and implying in effect a Suspension from Office

r This is not the style of a Legislator, especially of such an one as Archbishop *Peckham*, but rather the Annotation of a Lawyer. L. owns at the word *Subdeacon*, that he who goes to fetch the Chrism must have three Bottles, one for the Chrism, a second for the Oil of the Catechumens (with which the Party before Baptism was anointed on the Breast, and between the Shoulders) and the Oil for the sick.

7. We charge that for the future the most worthy Sacrament of the Eucharist be so kept, that a Tabernacle be made in every Church with a decent

f It seems probable, that this Tabernacle with its enclosure might be the same with the Canopy, in

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which *L.* describes the Sacrament hanging, according to the Custom of *England*, over the Altars. He expressly prefers the then practice of the *Hollanders*, and *Portuguese*, which was to lock it up in some close place in the Wall near the Altar. He owns one advantage in the *English* Fashion, that it was the more visible, and exposed to Adoration. Every sober Christian for that reason would wish it in some more private less conspicuous place for the prevention of Idolatry: His other reason is good, *viz.* that by hanging as it did, it was in greater danger of falling, or being thrown down, or taken away by any profane Chance-comer.

decent Enclosure according to the greatness of the cure, and the value of the Church, in which the Lord's Body may be laid, not in a Purse, or Bag, but in a fair Pyx, lin'd with the whitest Linen, so that it may be put in and taken out without any hazard of breaking it: And we charge, that the venerable Sacrament be renew'd every *Lord's-day*, and that Priests who are negligent in keeping of the Eucharist be punish'd according to the Rule of the General Council; and if they persist in their negligence more severely. We decree also, that this Sacrament be carried with due reverence to the Sick, the Priest having on his Surplice and Stole, with a Light in a Lanthorn before him, and a Bell to excite the People to due reverence, who are discreetly to be inform'd by the Priest, that they prostrate themselves, or at least make humble Adoration wheresoever the King of Glory is carried " under the cover of Bread.

* That is by Suspension from Office for three Months. See *Laser*. Council 1216 c. 20. It adds, that they shall be more grievously punish'd if Prophanation happen thro' their neglect.

" By this one would think, that the Constitutor allow'd that the Substance of Bread remain'd: But it is certain he very often expresses himself in an unaccurate manner, as the Reader will observe in the Translation, which is not less exact than the original.

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Bread. And let Archdeacons be very sollicitous in this Point, that they may obtain remission of their Sins: And let them with the rigour of Discipline chastise those whom they find negligent in this respect.

8. We know that praying for the Dead is holy and wholesom, especially for those who watch that they may give account of other Men, to which others therefore are more strongly bound in gratitude: Therefore we ordain, that when any Bishop of the Province of *Canterbury* dies, his surviving Brethren perform a * solemn Office of the dead, not only in their own Chapels singly, but when they are assembled after the decease of any Bishop, or Bishops in Council, or otherwise for the Service of the Church y jointly. Farther we charge, and in virtue of Obedience injoin every Priest as well secular as regular, that when they have certain Information of the Death of their Diocesan, they say every one a Mass for the Expiation of his Sins. Farther we intreat all exempt religious Priests, and Seculars too, if ther be any such, that they freely comply with this Ordinance (saving the Privileges of their Exemption in other respects) or at least do by their own Authority ordain

* With singing, L.

y I should understand this of what *Morinus* calls Concelebration of Masses (*de Ordinac. pars 3. pag. 126.*) that is the whole Council or College of Bishops joining in pronouncing all the Words of the Service, or the Bishop and his Priests in the Diocesan Synod, saying or singing Mass in the same manner. However it is certain this method was used in some Churches, if not in this. The Bishop, and his Priests, used thus to celebrate together in the Cathedral on the most solemn Feasts. And this explains the Canons of those Churches, which forbid *Christmas, Easter, &c.* to be celebrated in Villages. For on these Occasions the People, that were able, as well as Priests, went to the Cathedral, or to some Collegiate Church.

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dain it to be observ'd. They are to know that we will thank them for their good Will, and shall lament to find them otherwise dispos'd ^z. Let them inform us in our next Congregation what they resolve to do in this matter.

^z L. omits this.

9. Since it is wholesomly ordain'd, that Prelates in granting Indulgences do not exceed forty days, lest the Keys of the Church be despis'd: Let others who are commission'd to ^a dispense this mystical Treasure beware, lest they disgrace those Prelates, by whose Favour they obtain those Multiplications of Indulgences, by pouring them out in their Preachings, beyond the [intentions of those] Prelates; that they who ought to be subject to the Keys do not bring them into Contempt.

^a By c. 62. of the *Later. Council*, 1216. which is, I conceive here meant, one or more Bishops may grant a year's Indulgence, toward the erecting of a Church, forty days to encourage the observation of the Anniversary of the Dedication. These Indulgences themselves, and especially the abuse of them by the Friars, were not only groundless and abominable, but perfectly ridiculous. Archbishop *Peckham* who had been a Friar, and therefore probably employ'd in publishing and raising Money by them, was conscious of the foulness of this practice, and saw occasion to say that *the Keys of the Church were by this means brought into Contempt*. Yet it pleased Divine Providence to permit them to go on in their impious Frauds, till *Martin Luther* above two hundred Year after began a Reformation by displaying the Vileness of this Invention. The Council of *Trent* was ashamed of the gross trade, and laid aside the preaching of these Indulgences. And the things themselves are now little valued even by the Papists themselves.

10. Let not Clerks that are in Prison for their Crimes, and afterwards deliver'd to the Church as Convicts, be easily enlarged, or admitted to purgation

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gation upon too slight Pretences; ^b but with all ^c Solemnity of the Law, and with such provident Deliberation, as that it may not offend the King's Majesty, or any that have a regard to Equity.

^b It is from this and other Evidences very clear, that Clerks convicted by the Temporal Courts were not taken to be convicted in the Ecclesiastical Court; but might have another Trial before the Ordinary, and it is evident by what *L.* here speaks at large, that Canonists expected the secular Judge should always credit the Ecclesiastical Court, but that the Ecclesiastical Court was not bound to credit the Secular, unless it were for the advantage of the Church. This was very hard: and the reverse of it is now put upon them.

^c That is by giving publick Notice of it beforehand, *Lindwood.*

11. For the Mercies of *Christ Jesus* let care be taken that Friars, and Nuns rigidly preserve their Chastity, by punishing all that solicit, or actually corrupt it; and by restraining them from making too long stays in the Houses of their Parents, or Friends. And we forbid Ecclesiastic Men, and secular Women to dwell with them in their Houses.

12. Observing that what grows upon sacred places is sacred; and that Laymen have no power by Law to dispose of sacred Ecclesiastical things, but are under a necessity of Obedience; being supported with the ^d Authority of the sacred Canons we forbid all Parishioners of our Province to dispose of the Grass, Trees, or Roots growing in consecrated Church-yards; or any other holy Places. But let the said Trees, as they ought, be

^d He means all those Canons which forbid one Man to invade what belongs to another, and Laymen to deprive the Church of her Rights. *N.B.* We have this Constitution only in the *Oxford* Copy, and then it follows after the Conclusion of the Council. I took the liberty to place it here.

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at the disposal of the Rectors of the said Churches, or Chapels, to whom the disposal of the Churches, and the Obventions thereof are granted. And if the said Rectors do without sufficient, reasonable Cause, ^e spoil, or grub up the said Trees, which are an Ornament to the Church-yards, and Places therabouts, let them know that they shall be punish'd by us and our Successors, as Violators of the Rights and Liberties of the Church, according to the quality of the Fact.

^e *Lat. deturpaverint.* I am apt to think it was originally *destirpaverint*, which as opposed to *extirpaverint*, may signify to fell, or cut down. For Canonists, as well other Lawyers, have words of their own making.

And we charge that at our next Congregation at the time of the next Parliament, three Weeks after *Michaelmas* now (by God's Grace) coming, besides the Persons of the Bishops, and the Proxies of such as may be absent, two at least elected by the Clergy of every Bishoprick do come with sufficient Authority to treat with us concerning such things as may be for the common Interest of the Church of *England*, if a Proposal should be made concerning a ^f Contribution or Expende.

^f I read *contributiome*, not *conturb*——

It is asserted by some that are well vers'd in Manuscripts, that this last Paragraph is in none of the ancient Copies; and that the Parochial Clergy were not yet call'd to Parochial Synods: and it has been conjectur'd that this Paragraph was a Resolve of the State Convocation held at *Northampton*, 1283, with regard to their next Assembly at the *Temple*, *London*.

The following Constitution having been made at the same time and place, I here insert as translated from the Copy publish'd by the very accurate hand of his Grace the present Lord Archbishop of Canterbury, in Append. to the State of the Church, pag. 12.

A Pre-

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A Protection of the Liberties of the Scholars at Oxford by the Archbishop of Canterbury.

13. **F**R I A R *John* by Divine Miseration Archbishop of *Canterbury*, P. of *A. E.* to his beloved in *Christ* the Chancellor, and University of Masters and Scholars at *Oxford* in the Diocese of *Lincoln*, Health, Grace, and Benediction. We shew all possible favour to them who are seeking the Pearl of Knowledge in the Field of Scholastic Discipline, and willingly grant them what may advance their Tranquillity by taking away the occasion of their Grievances. Therefore mov'd by your devout Prayers we receive under our Protection your Persons, together with all the Goods belonging to you all, which you at present do by fair means possess, or which ye shall hereafter by God's help justly get. But especially we with the unanimous express consent of our Brethren, do by the Authority of these Presents, and by the Patronage of this present Writing confirm to you, and to your Successors by you, the Liberties and Immunities duly granted you by Bishops, Kings, great Men, and other faithful People of *Christ*, according as ye do now justly and fairly enjoy them. Farther because we are given to understand, that some Men regardless of their own Salvation, when they have been laid under a Sentence of Suspension, or Excommunication for their Offences committed in the University of *Oxford*, by the Chancellor of the University, or by inferior Judges deputed by him, or by the said Chancellor together with the whole University of Regents only, and sometimes both of Regents and Non-Regents, they withdraw from you and your Jurisdiction

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tion in contempt of the Keys of the Church; now to the intent that [the said Sentences] may have their full force and strength, we with the express unanimous consent of our Brethren, do grant to you by the Tenour of these Presents, that [the said Sentences] be put in full Execution within our Province by our selves, our Brethren, and their Officials, as often as we, or our Brethren are lawfully requir'd by you in this respect. And being willing farther to make a more plentiful Provision for your Tranquillity, that your Community for the future may be conducted in Prosperity and Peace, we grant to you, and with the express unanimous consent of our Brethren, we ordain and enact, that if any Clerks benefic'd in our Province be found in Arms by Night or by Day, to the disturbance of [your] Peace, or by any other means interrupting the Tranquillity of the University, and are lawfully and duly convicted hereof, or do presumptively confess it by their running away, that their Benefices be sequester'd in the Hands of their Prelates for three Years upon an Information made to the Bishops by the Chancellor under the common Seal of the University; and that lawful Satisfaction be made to him, or them that have been hurt by the Party so convicted, confessing, or running away, out of the Fruits of such Benefices in the mean time to be received. But if they are unbenefic'd, let them for five Years be esteem'd incapable of accepting any Ecclesiastical Benefice; unless in the mean time they make competent Satisfaction to them whom they have hurt, and have by merit recover'd the Grace of the University, with a saving to their Reputation after Satisfaction made. In Testimony of all which our Seal, together with the Seals of our Brethren here present, is appendent to this Writing. Dated in our Council at *Reading* the Day before

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before the Calends of *August*, in the Year of Grace,
1279.

Cantuar. Lincoln. Sarum. Winton. Exon. Cices-
tern. Wygorn. Bathon. Landaven. Herefordens.
Norwycen. Bangoren. Roffens.

A. D. MCCLXXXI.

Archbishop Peckham's *Constitutions at*
Lambeth.

Sir H. S. vol. 2. p. 320.

HERE begin the Constitutions of Friar *John*
Peckham, Archbishop of *Canterbury*, published at *Lambeth*, A. D. 1281. in the ninth Year of the Reign of King *Edward* the First, *Martin* the Second *alias* the Fourth being chief Pontif.

The Orthodox Fathers from the very infancy of the Church have encounter'd Errors, Corruptions, and Calamities by conciliary Treaties, where wise and holy Men give an Edge to each other, and get the Mind of *Christ*, who is in the midst of them when so assembled: Therefore following the holy Fathers, and driven by the Authority of the Law, and the Necessity of the Church, we *Friar John* by Divine Permission Archbishop of *Canterbury*, Pr. of *A. E.* have commanded this holy Council to be call'd, hoping to remedy the present Inconveniencies by the effectual Assistance of our Brethren the Bishops, and other the Prelates of our Province, under the Protection of the Grace of *Christ*. We intend by the preventing Grace of the Spirit, by our Consultations and Endeavours to correct some Transgressors of the
Canons,

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Canons; to re-establish some things that have formerly been publish'd for the curing our Evils, and yet not been so approv'd as to be put in practice; to obviate some Innovations, or rather Transgressions now exhaling from the Infernal Pit. And in these Points we fear not the Teeth of Detraction; for tho' the most perfect Laws of God have certain limits; yet necessity will allow no bounds to be set to human Law; therefore both Testaments teach the contempt of Law and Canons to be monstrously criminal: For such as resist the Apostolical Decrees and the Definitions of Councils, the Sword of *Moses* strikes with a capital Punishment; and Wisdom Incarnate has decreed that those who hear not the Church be as Heathens, and Publicans, and that the contempt of Apostolical Authority redounds to the contempt of him that is Father of all. For they whom *Peter* binds with his Laws are bound in the Imperial heavenly Palace. Yet we find some, both Clerks and Laymen who boast themselves Christians, do cast away the Yoke of the Canons, trample upon Apostolical Sanctions, forgetting that glorious Martyr *Thomas* our Patriarch, who in defence of these Laws suffer'd Banishment and Death.

By the Authority of the ^s *Lateran* Council we will cause the Canons to be rehears'd. And we will cause the ^h Council of *Lions* to be recited in the first place, as being the last of all; and therefore the violation of it the more enormous; not only that it may be notify'd to all, that

^s By c. 6. of the *Lat.* Council, 1216. The Canons especially of that Council are order'd to be read in every Provincial Synod: But it does not appear that they were read here.

^h Ther were two Councils held at *Lions* in this Century, and both styled general, the first in 1245. the other 1274. I suppose the last is here meant.

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that no Man's Ignorance may be his Excuse; but that the Apostolical Clemency may be implor'd for the moderating of whatever may seem inconsistent with the Custom of this Country, which differs in many Points from all others, for *Obedience is better than Sacrifice*; and we believe Disobedience to be the cause of this miserable Catastrophe in the Church of *England*. Secondly, we will cause the Constitutions of Lord *Othobon* of holy Memory (afterwards advanc'd to the Apostolical Dignity) to be read, and that with the greater reverence, on the account of his having commanded this to be done yearly, word for word, by the Archbishops and Bishops in their Synods. Thirdly, we will cause the Council of *Lambeth*, which our Predecessor *Boniface* of holy Memory with the Archbishops and Bishops of his time is known to have publish'd to be read, that it may be considered how we ought to proceed in relation to that, which is said to have been suspended by an Appeal. Lastly we will add what seems necessary to be ordain'd by us.

1. The most High hath created a Medicine for the Body of Man (which was taken out of the Earth) reposit in seven Vessels, that is in the seven Sacraments of the Church, which are handled, and dispens'd with little reverence and diligence, as our own Eyes inform us. Here then let us begin our Correction, and especially in the Sacrament of our Lord's Body, which is a Sacrament, and a Sacrifice of a Sacrament, sanctifying those who eat it; and a Sacrifice, which by its Oblation is profitable for all in whose behalf it is made, as well the living as the dead. By daily Scandals we find, that ther are many Priests of the Lord in number, few in merit. We chiefly lament this among their damnable Neglects, that they are irreverent in respect to this Sacrament; that

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that they consecrate it with accursed Tongues, reposit, and keep it with contempt; and neglect to change it so long, that the containing Species is corrupted; so that the Author of our Salvation, who gave himself for a *Viaticum* to his Church, is justly offended with such Irreverence; we ordain as a remedy to this Mischief, that every Priest that hath not a Canonical Excuse, do consecrate once every Week at least, and that a Tabernacle, &c. *as in the seventh of this Archbishop's Constitutions at Reading, to the word Lord's-day.* ¹ Let the Bells be toll'd at the Elevation of the Body of *Christ*, that the People who have not leisure daily to be present at Mass, may, wherever they are, in Houses, or Fields, bow their Knees in order to the having the Indulgences granted by many Bishops. And let Priests who are negligent in keeping the Eucharist, &c. *as in Constitution the seventh at Reading to the end.* ^m Let Priests also take care when they give the holy Communion at *Easter*, or at any other time to the Simple, diligently to instruct them that the Body and Blood of our Lord is given them at once under the Species of Bread; nay the whole living and true *Christ*, who is entirely under the Species of the Sacrament: And let them at the same time ⁿ instruct them,

¹ Now the Doctrine of Transubstantiation was brought to its perfect height, and the Practice consequent upon it establish'd.

^m The Reader is not to surmise that these Constitutions being in both these Councils are therefore interpolated in one of them. It seems plain that Archbishop Peckham inserted them in both, as appears from his manner of reinforcing the last part of the seventh Canon at *Reading*, in this Council at *Lambeth*, which is thus, *as to the carrying the Eucharist to the sick, let that decency be observ'd, which was ordain'd at another time and place.*

ⁿ This was frank and fair. I am inform'd that the
Romish

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Romish Priests in *England* did no longer ago than the Reigns of King *Charles* and *James* the Second, continue this Practice of giving unconsecrated Wine to the People, without cautioning them in the manner here prescribed, and that an old Woman of that Communion did swear that a Priest of the Romish Church, then dead, did always administer the Cup as well as the Host to the People: Whereupon the Plaintiff, who su'd for an Estate in Lands given him by Deed by the said Popish Priest carried his Cause at the Assizes in *Kent*. For the Judge and Jury agreed, that if he did give the Cup, he could not be a Popish Priest and might therefore inherit and dispose of Lands; but at another Trial at the same place it was made appear, that the Cup given by the said Priest contain'd only unconsecrated Wine, and that it was the usual practice of such Priests here to give an unconsecrated Draught to the People, and so the Estate went to the Heir at Law.

them, that what at the same time is given them to drink is ° not the Sacrament, but mere Wine, to be drunk for the more easy swallowing of the Sacrament which they have taken. For it is allow'd in such P small Churches to none but them that

° What is the reason, says *L.* that the Laity have the Sacrament but in one kind? He answers, 1. Because otherwise they might believe, that the whole *Christ* was not contain'd under one Species. 2. Lest the Blood should be spilt. 3. Because under the Law the People that offer'd did not partake of the Drink-offering. (No, nor yet the Priests say the Rabbies, and all who believe the Drink-offering to have been wholly pour'd out on the Altar.) 4. Because it wou'd not be decent to consecrate so much Wine as would be necessary in some Parishes, where there are many thousands of People, nor could a Vessel sufficiently large be found, or placed on the Altar. These are the best Reasons that Bishop *L.* could invent to excuse so gross a Sacrilege.

P Therefore, as *L.* observes in greater Churches it might be allow'd; yet only to the assisting Priests, in Cathedral, and other great Churches where such a Custom is, and if they have in the Cup a sufficient quantity.

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tuy. However, I think it evident, that the Cup was not yet wholly and absolutely denied the Laity in Archbishop *Peckham's* Days, tho' it was in *L's*; however it was not wholly denied to the assisting Priests, as it has been for several Ages past.

that celebrate, to receive the Blood under the Species of consecrated Wine. Let them also direct them not overmuch to grind the Sacrament with their Teeth, but to swallow it entirely after they have a little chew'd it; lest it happen that some small Particle stick between their Teeth, or some where else. Let Parish Priests beware that they give not the Body of the Lord to any that have not Evidence of their having confess'd by Testimonial, or other credible Assurance: And we lay the stress of the Proof upon the ^q Oath of him that is to receive [the Sacrament], who is to take care of what concerns his Salvation. Let no Priest give the Communion to the Parishioner of another Priest without his manifest Licence. We extend not this Ordinance to Travellers, or Persons in danger, or in case of Necessity.

^q Their Affirmation is sufficient, says *L.*

^r This Constitution is of little force, says *L.* for want of a Penalty.

2. Let all Priests beware that they do not so oblige themselves to celebrate peculiar Masses for Families as to disable themselves from discharging their Canonical Office in the Church committed to them; nor undertake to celebrate ^f Annals for the dead, except they can celebrate daily, or procure others to do it; nor undertake more Annals than they have Priests to assist them; unless he who procures these Devotions for the Dead do expressly

^f Daily Masses for the Dead throughout one whole Year.

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expressly consent, that the memory of his deceas'd Friend may be join'd with others in the same Mass. And let not the celebrating Priest think that by saying one Mass he does what is sufficient for two, in behalf of whom he promis'd entirely to celebrate; for tho' the Canon say, that *not less [Benefit] is receiv'd; when a Mass is said for many, than if it were said for every one singly*, this is to be understood of Masses said with a reluctance of Mind: And far be it from any Catholic to say that one Mass is as effectual for a thousand Men, as a thousand Masses said with equal Devotion: For tho' *Christ*, as a Sacrifice, is of infinite Virtue; yet he does not operate in the Sacrament, or Sacrifice, according to his immense Plenitude: for then but one Mass need be said for one Man. He operates in these Mysteries by a certain distribution of his Plenitude, annex't to them by an ineffable Law. And we monish them who have accepted of Stipends for celebrating Annals, or "Anniversaries, and yet thro' malice, or carelessness do not perform their Obligations, that they make full Satisfaction for their Omissions; and give to the Poor such Profits as they have receiv'd in behalf of those Souls. And if they wilfully neglect both the one and the other, * let them be sharply corrected by their Ordinaries, as Deceivers of the Faithful.

* That is *de Consecratione. Dist. 5. c. 24.* It is a Citation from a Book falsely ascribed to St. Jerome *de Regul. Monach.*

" *L.* expressly says, they are the same with Annals.

* *L.* says the Money receiv'd for this purpose could not be demanded again, unless ther was an exprefs Contract to this effect.

3. We find some have transgress'd as to the Sacrament of Baptism. For whereas it is allow'd to Laymen, or Women to baptize Children in case

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of inevitable Necessity, and such Baptism is evidently sufficient to Salvation, if the due form be observ'd; and they who have been so baptiz'd ought not to be baptiz'd again; and yet some foolish Priests do re-baptize them, which is an indignity to the Sacrament; now we firmly forbid this for the future. But let the Exorcisms and Catechisms be us'd over Children so baptiz'd, in reverence to the Ordinances of the Church. But the form of the Sacrament in the vulgar Tongue consists not only in the Signs, but in the Series of the words, in which it was instituted by God; inasmuch as *Christ* the Lord hath conferr'd a regenerative Power to those Words so ranged as they are in the Latin Tongue: Let then the Baptizers say thus, *⁊ I christen thee in the name of the Father, and of the Son, and of the Holy Ghost.* And if the Priest doubt whether the Child was baptiz'd in due form, let him observe the manner in the ² Decretal, together with the Exorcisms, and Catechism, saying *If thou art baptiz'd, I do not rebaptize thee, if thou art not baptized, I baptize thee in the name of, &c.* Let Priests take care that names, which carry a lascivious sound be not given to Children at their Baptism, especially to those of the female Sex. If they be, let them be alter'd by the Bishops at ² Confirmation.

4. Many

¹ In Sir H. 3's Copy, which seems to be the older *Englsh*, it goes thus *I churistene thee in the faders name*, with an *Ec.* and 'tis much the same in the *Oxford* Copy.

² L. 3. Tit. 42. c. 2. Tis a Decretal of *Alex. 3. A. D.* 1175.

³ Of old the Bishop at Confirmation pronounced the Name of every Child, or Person confirm'd by him, and if he did not approve of the Name, or the Person himself, or his Friends desir'd it to be alter'd, it might be done by the Bishops pronouncing a new Name upon his ministring

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ministring this Rite, and the Common Law allow'd of the Alteration. But upon the review of the Liturgy at King *Charles's* Restauration the Office of Confirmation is alter'd as to this Point. For now the Bishop does not pronounce the Name of the Person confirm'd, and therefore cannot alter it.

4. Many neglect the Sacrament of Confirmation for want of watchful Advisers; so that there are many, innumerable many who want the Grace of Confirmation, tho' grown old in evil Days. To cure this damnable Neglect, we ordain, that none be admitted to the Sacrament of the Lord's Body and Blood, that is not confirm'd except at the Point of Death; unless he have a reasonable Impediment.

5. Whereas according to Theological Doctors the Clerical Army is fortify'd with seven Orders, by every one of which a Character is impress'd on the Soul, and an increase of Grace is receiv'd, unless the ordain'd dissemble or are involv'd in some Crime; it is expedient that no Man have Orders^b inculcated on him; because the Inculcation lessens the Reverence, and by consequence the Grace which bounds back from graceless Men. It is therefore contrary to the Dignity of the most Reverend Sacrament to confer^c five Orders to one Man at once, that is four unsacred, one sacred:

^b That is multiply'd, or given in two great numbers at once.

^c Ofsiary, Lectur, Exorcist, Acolyth are those of the inferior Orders, Sub-deacon, Deacon, Priest, are the holy or superior Orders. The Psalmist was of no Order, but was shav'd in order to be ordain'd, and was a Clerk in a large Sense. *Morin. de Ordin.* has a particular Chapter against this Innovation. The Bishop was by the School Divines deem'd to be of the same Order with the Priest, tho' he was above him in Office, or Jurisdiction. But the Canonists scarce allow'd of this, but affirm'd the Order of Bishops, and Priests to be distinct.

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Therefore in some Provinces the four lesser Orders are not easily given to one Man in the same day; that so Clerks while they are advancing toward the Mysteries of *Christ* may sing together the ^d Song of Degrees, when having found Approbation in lower Offices they gradually proceed to higher. Because therefore we ought to make Collections of what is best in every Church for *English* Souls, we charge, that Bishops in these respects follow the Canonical Sanctions; and let the lesser Orders also be given at several times, when it can well be done, out of Reverence to the Sacrament. And let such as receive them singly, or conjointly be publickly instructed in the vulgar Tongue, concerning the distinction of Orders, Offices and Characters, and of the increase of Grace in every Order to such as are worthy Receivers.

^d Fifteen Psalms beginning at the 120th, but the Allusion seems not very apt.

6. The Sacrament of Penance, which is a singular remedy for such as have been cast away loses its Effects thro' the Ignorance of some Priests, and they who were thought to be safe landed, are but sunk deeper in the Abyss of Damnation, while they absolve those, whom by Law they cannot absolve; and so according to the Prophet, *save the Souls alive, who should not live, for an handful of Barly, and a piece of Bread*: They absolve *de facto* such as are excommunicate *de jure*, and particularly by the ^e Council of *Oxford* for hurting, or disturbing Ecclesiastical Liberty, or such like Crimes, or for withholding Tithes or other Ecclesiastical Dues: We opposing such Seducers of Souls who *sew Pillows*

^e See the *Constit.* of *Stephen Langton, L.* He would rather have said of *Boniface*, if he had not known that his Constitutions were not receiv'd.

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Pillows under the Elbows of the wicked, strictly forbid all Confessors subject to us, and our Fellow-Bishops of the Province of *Canterbury* to stretch out their Hands for the future to absolve these Seducers (which is of no force without due Satisfaction made, and without a special Commission from the Archbishop or Bishop) while they are obstinate in their Crimes. For we judge such Men to be ^f Confessors of the Devils Ditches rather than Confessors, and that they sin very grievously, for they are guilty of consenting, tacitly at least, to their Crimes, and of confirming the Villains in their Perfidiousness: And let them take care, lest they be involv'd in the same Sentence of Excommunication. Farther, whereas we sometime since intending to restrain plurality of Benefices so sacrilegiously practis'd, forbade under pain of Excommunication any Man to ^g extend his Hands for the absolving *de facto* of such as were contumacious in their Thefts and Sacrileges; and yet some Priests of *Baal* rather than of the Lord have presum'd to do it, and so slay Souls redeem'd with the Blood of *Christ*, and subvert Ecclesiastical Discipline; we esteeming them as Foxes who destroy the Vineyard of the Lord do again charge them under the former Penalty, that for the future they abstain from absolving such as these; and that they earnestly persuade them to renounce the Benefices
thus

^f This jingle is lost in the last Edition of *L.* but it stands clear in Sir *H. S.* and the *Oxford* Copy. Yet *L.* affirms that Curates may absolve in any case not expressly reserv'd in the Canon, but 'tis from the lesser Excommunication only, which he supposes may be incurred *ipso facto*, as when a Man converses with one Excommunicate with the greater Excommunication.

^g By this Phrase used here, and elsewhere in the Constitutions of Archbishop *Peckham*, one would think, that Imposition of Hands on Penitents was still in use. See also *L.*'s gloss here.

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thus unlawfully gotten and retain'd: Else know, that they are certainly to be smitten by the divine Malediction. Farther, they who under pretence of general Privileges, from the Apostolical See, intrude themselves, or hearing the Confessions of such as are Bishops, in contempt of Episcopal Authority, out asking the Bishops consent, contrary to the Apostolical intention. For the repressing Mens Presumption, we forbid under pain of excommunication, that any one for the future, out the express, or reasonably presum'd of the Bishop do presume to hear the Confession of his Subjects, unless he be exempted from the Point of hearing Confessions from the Jurisdiction, both Diocesane and Metropolitane, the express Tenor of his Privilege. Let transgressors be proceeded against, as rash Users of Privileges.

^b This seems to be a mere Gasconade, and in this Point were Friars, who were of the Jurisdiction of Archbishops and Bishops. The present Text is faulty in this last part of the sentence, and indeed for the most part; I here

7. Whereas according to the sacred Canons, greater Sins, such as Murders, Incests, and other which by their Scandal raise a clamour in the City are to be chastis'd with a solemn Penance. Yet such Penance seems buried in Oblivion, the negligence of some, and the boldness of Criminals thereby increased. Therefore we decree that such solemn Penance be for the future observed according to the Canonical Statutes, and we reserve Absolution from wilful Murder, Rape, and other heinous Crimes to the Bishop, or his Vicar, or such as he shall appoint.

ⁱ L. and other Canonists mention three sorts of Penance, 1. Private injoin'd by any Priest in the Confession; 2. Publick in the Church; and the 3. of Souls: 5

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join'd by the Priest for any noto-
riety or without the Bishops Li-
cense or Custom of the Country. 3. So-
me be injoin'd by the Bishop only:
for three, or more Years: But in
many Years soever the Penance
perform'd in *Lent* only: At the
beginning of these Years, the Offend-
er is shut out of the Church, the first
of the following Year by the Bishop,
on *Thursday* the Offender was
admitted and receiv'd the Sacrament on
the next Day till *Low-Sunday*: This
is the custom, or Priest. But the last final
penance could be pass'd regularly
and it is observable, that even
now is a notion prevail'd, that this
is done but once: If any Man
receiv'd, he was to be thrust into a
penance by the Church; or how-
ever according to the strictness
of reason to apprehend that it
is not. And indeed this solemn
penance this Age: that all said on this
more than Practice, except perhaps

is due to the Bishops only, ex-
clusively. By which we intend
of Inferiors, and not lessen
Inferiors.

has been long since ordain'd by the
law that he be in every Deanery one
of sufficient Learning, eminent
and good Reputation appointed
of the Rectors, Vicars, and

the Constitution of *Otto*, and the
Angton here to be meant.
of Parish Priests (that is tem-
poral Priests, says *L.* they are
not to the principal Curate, whe-
ther Vicar; and the Vicar to the Rec-
tor of Souls: See *Corb. 5. 1127*

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other Priests, and ^m Ministers of the Church; and to Injoin Penances, that he may be as it were a molten Sea, according to the Emblems of the typical Temple; and yet this has not been practis'd by the Clergy; whereby God hath been injur'd, and the Ministrations of Sacraments, and Celebrations of Masses have been made Execrations: Therefore we renewing the said Ordinance do charge, that it be inviolably observ'd for the future; not intending hereby to inhibit the said Persons from going to other ^a common Penitentiaries for the Sacrament of Penance, if they please, so that they be sure of their being duly autoriz'd.

^m I know not what these Constitutions mean, says L. in speaking of Confessors to such as are subject to the Curates of the Churches, and who ought to receive the Sacraments, and particularly Penance from the said Curates; unless you will understand them of Cases reserv'd to the Bishop.

^a That is Penitentiaries assign'd by the Bishop to hear all Confessions of such Crimes as are reserv'd to his bearing, and that both for the Clergy and Laity; whereas the Penitentiaries meant to be establish'd in this Constitution were for the Clergy only.

9. The Ignorance of Priests plunges the People into Error; and the Stupidness of Clerks who are commanded to instruct the Faithful in the Catholic Faith, does rather mislead than teach them. Some who preach to others do not visit the Places which most of all want Light, as the Prophet says, *° The little ones ask'd Bread, and ther was no Man to break it to them,* and another cries, *the poor and needy seek Water, their Tongue is dry for thirß.* As a remedy for these Mischiefs we ordain and injoin, that every Priest who presides over a People do four times in the Year, that is once a Quarter, on some one, or more solemn Days by himself,

[°] Lam. iv. 4. *U.* xli. 17.

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himself, or by some other expound to the People in the vulgar Tongue, without any fantastical Affectation of Subtilty the fourteen Articles of Faith, the ten Commandments of the Decalogue, the two Precepts of the Gospel, or of Love to God and Man, the seven Works of Mercy, the seven capital Sins, with their Progeny, the seven principal Virtues, and the seven Sacraments of Grace. And that Ignorance may be no Man's Excuse, though all Ministers of the Church are bound to know them, we have here briefly summ'd them up. Ye are to know then that ther are seven Articles of Faith belonging to the Mystery of the Trinity, four of them do belong to the Deity intrinsically, three of them to it's Operations. The 1. is the Unity of the divine Essence in the indivisible Trinity of the Three Persons, as it is said, *I believe in one God* 2. To believe the Father to be God unbegotten. 3. To believe the Son to be God only begotten of God. 4. To believe the Holy Ghost to be God neither begotten nor unbegotten, but proceeding both from Father and Son. 5. To believe that the Creation of every Creature, visible and invisible, is from the entire indivisible Trinity. 6. Is the Sanctification of the Church by the Holy Ghost, and by the Sacraments of Grace, and by all those things in which the Christian Church communicates together: By which we understand, that the Church by the Holy Ghost with her Sacraments and Laws is sufficient for the Salvation of every Man, tho' he be a Sinner to never so great a degree, and that out of the Church is no Salvation. 7. Is the Consummation of the Church in eternal Glory, both as to Soul and Body, which is truly to be rais'd up again; and by the rule of Contraries the eternal Damnation of the wicked. The other seven Articles belong to *Christ's Humanity*. 1. Is his Incarnation,

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and in this Commandment is forbidden implicitly the coveting the immoveable Goods of another, especially of a Catholic. Seventh is, *Thou shalt not covet thy Neighbours Wife, nor his Man-servant, nor his Maid-servant, &c.* where all coveting the Possessions of another is forbidden, with respect to Moveables. The Gospel adds two Commandments to these ten, viz. the Love of God, and our Neighbour. He loves God who keeps the Commandments aforesaid out of love, not out of fear of Punishment. But a Man ought to love his Neighbour as himself. Where the Particle *as* does not import Equality, but Conformity, that is for good, and not for evil: *As thy self*, that is spiritually, not carnally, as carnally implies somewhat vicious: *As thy self*, that is in Prosperity and Adversity, in Health and Sicknes. *As your self* in respect to Temporals, so as to love every Man more than all temporal Abundance: *As your self*, inasmuch as to love your Neighbour's Soul, and the eternal Salvation of it more than your own temporal Life: As you ought to prefer the Life of your own Soul to your carnal Life: *As your self*, so as to succour every Man in case of Necessity, as you desire to be succour'd your self. ¶ Six Works of Mercy are manifest from St. Matthew's Gospel, to feed the Hungry, to give drink to the Thirsty, to entertain the Stranger, to cloth the Naked, to visit the Sick, to comfort the Prisoner; the seventh is inferr'd from *Tobit*, which is to bury the Bodies of the dead. The seven capital Sins are Pride, Envy, Anger, ¹ Carelesness, Covetousness,

¶ Here Sir H. S's Copy passes to the general Excommunications, Constitution 10. omitting what comes between, and gives the Excommunications imperfectly: And it is indeed a very erroneous Copy throughout.

² *Accidia* in L's present Copy, *acedia* in the Oxford Copy. I take this latter to be the true reading, and suppose it to

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be intended to mean as the Greek, *ἀνδία*, Indolence, or carnal Security, as our Divines often call it. I know the Ecclesiastical Latins sometimes turn it *Maror*, *Tristitia*, and the Greek word may perhaps bear that Sense: But I take the former to be the most just Renditions. Instead of this the modern Books of the Papists in English have *Sloth*.

tousness, Gluttony, Luxury. Pride is a love of ones own Excellency; from whence springs Boasting, Ostentation, Hypocrisy, Schism, and the like. Envy is the hatred of another Man's Felicity, from whence comes Detraction, Murmuring, Dissension, perverse Judgment, and the like. Anger is a desire of Revenge, and of hurt to another, which when it rests in the Heart, produces Hatred, Persecution in Word and Deed, Blows, Slaughter, and the like. Carelessness, is a loathing of spiritual Good, insomuch that a Man delights not in God, nor divine Praises, and it is attended with Laziness, Cowardice, Despair, and the like. Covetousness is an immoderate love of Plenty, whether in moveables, or immoveables, and that either in getting or keeping them: From whence comes Fraud, Theft, Sacrilege, Simony, and all filthy Lucre. Gluttony is an immoderate love of the Pleasures of Taste in eating or drinking: And ther are five ways of sinning in it, 1. As to time when one eats too early, too late, or too often. 2. In Quality, when delicate Meats are studied. 3. In quantity, when one eats, or drinks too much, which is the vilest kind of Gluttony, when the Body is made heavy, the inward or outward Sense is obstructed, or the bodily Health impaired. 4. In Greediness, or Voracity. 5. Niceness in Cookery in order to excite a gluttonous Appetite. Luxury ought not to be explain'd; the stench whereof infects the common Air. The principal Virtues are seven, Faith, Hope, and
U Charity,

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Charity, which regard God, and are call'd Theological. Prudence, Temperance, Justice, and Fortitude which regard a Man's self, and his Neighbour. It is an act of Prudence to chuse what is good; of Justice to do what is right; of Temperance, not to be ensnar'd with Pleasures; of Fortitude, not to desist from doing good on account of Straits and Difficulties: And these are call'd Cardinal, that is principal Virtues; because the other Virtues are deriv'd from these. Of which at present we will no longer treat, because we are labouring for the simple only. Ther are seven Sacraments of Grace, of which the Prelates of the Church are Dispensers, and five therof every Christian ought to receive, *viz.* Baptism, Confirmation, Penance, Eucharist in its proper season, and Extreme Unction: Which last ought to be given to them only who seem to be in danger of Death, and to them let it, if possible, be given while they have a sound Mind and Reason: And we advise it to be given to them that are in a Frenzy, or alienation of Mind (if they had before a due care of their Salvation) with good assurance. For we believe, and have learn'd by experience, that the receiving therof contributes to their getting a lucid interval, or at least to their spiritual good, that is increase of Grace, upon Condition that they be Sons of Predestination, how frantic soever they be. Ther are two other Sacraments, Order, and Matrimony: The first is proper for the perfect; the other, in the times of the New Testament to the imperfect only. And yet we believe it confers Graces (if it be contracted with a sincere Mind) by its Sacramental Virtue.

10. At the same time let the Sentences pass'd by us and our Predecessors be publish'd; as for instance they are excommunicated by the Council of *Oxford*, who deprive Churches of their Rights,
and

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and that endeavour to infringe or disturb their Liberties by malice, and contrary to Justice, where three sorts of Men are excommunicate; such as take away from Churches their Rights, such as infringe their Liberties, such as disturb them; which we understand not only of the general Liberties of the whole Church, but both in regard to Spirituals and Temporals. On which account we do especially believe them to be excommunicate, who obstruct the Process of Ecclesiastical Causes by the Letters, or Laws of a Lay Court; Causes which so belong to the Ecclesiastical Court, that they cannot, and never were accusom'd to be determin'd by a secular Judicature. We say this not with an intention to apply these Sentences to them only, nor to approve other Disturbances given to the Ecclesiastical Laws; but because our Will is, that such Enemies of God, and the Church be chastis'd with due rigour. Farther, by decreeing the same Sentence we charge all those to be denounc'd excommunicate, who by a false pretence of Objections obstruct Episcopal, and Archiepiscopal Process, or evade Discipline.

† It is as clear as the day that this Archbishop does here renew those very Articles of Excommunication, which he first publish'd at *Reading*, and was afterwards forc'd to revoke, See Const. 3 1279. and Notes there. It seems probable, that the Temporal Barons, and he were now in a better mutual understanding than before, or that the *Welsh* by their Hostilities gave the King such Avocations from his English Affairs, that he less concern'd himself what the Bishops did, or that he did not find himself in condition to oppose the Attempts made by them.

Here follow the second, third, fourth, fifth, sixth, seventh, eighth, ninth, tenth and eleventh Articles of general Excommunication contain'd in the third Constitution of this Archbishop at Reading, as

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they have been before presented to the Reader with little or no variations; then the Constitution proceeds as follows,

And let Archdeacons make enquiry concerning this Publication, and as often as they find the Priests not to have publish'd the said moral Instruction, and the above written Sentences of Excommunication at the appointed times, let them reprove them, and compel them to supply the Omission by ^t Canonical Correction.

^t That is by a moderate Suspension, says *L.* for he says, the Archdeacon cannot lay a pecuniary Punishment on the Transgressor, because he has no power to dispense with him.

11. Whereas the holy Scripture declares, that Pastors are bound to *feed the Flocks committed to them, and the Mouth of the Ox that treadeth out the Corn is not to be muzzled*; we ordain that Rectors who do not corporally reside on their Churches, and have no Vicars do by their Stewards keep Hospitality; according to the value of the Church; so far at least, as to relieve the extreme Necessities of the Poor, and that they who travel there, and ^u preach the Word of God may receive necessary Food, lest the Churches be justly deserted by the Preachers thro' the violence of their Wants: For the Labourer is worthy of his Meat, and no Man is bound to bear Arms at his own Cost.

^u This Constitution was made by Archbishop *Peckham*, in favour of his own Brethren the Friars, who travel'd under pretence of preaching. *L.* here bears hard upon them for sauntering up and down in the Parishes where they preach'd, and begging the Peoples Alms after they had receiv'd what was sufficient at the Parsonage House.

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12. Some rural Deans are defam'd for diabolical Craft in Citations contrary to the common order of Law, that is they sell Certificates for Money to fraudulent Men; when no notice of the Citation is given to the Party concern'd, either before making the Certificate, or afterwards, and so the Innocent is condemn'd. For the cure of this we ordain, that no Certificate be given to any but what has first been publicly read at high Mass in the Church where the Party cited dwells, or sojourns for the most part. And we add this Qualification, that the Party cited have sufficient time allow'd him to make his Appearance at the time and place appointed. And if in some Cases they are so streighten'd for time, that ther is no room for delay, * let the Certificates be given in the Church, or in some publick place before Witneses, after the Citation has been first made before Witneses also; and so that the day and place of the Citation be expres'd in the Certificate; and let no Certificate be made before the Citation. And y let rural Deans be sworn every Year in the Bishops Synod to do this.

* That is for delaying the Certificate till next High Mass.

y L. supposes the reason of this might be, that new Deans were yearly elected; however the Canon supposes that the Bishop every Year held his Synod.

13. ^z We have consider'd the horrible malice of some, that when the Possessor of an Ecclesiastical Benefice hath been absent at a great distance, a crafty Adversary coveting what belong'd to him hath invented a Lie, viz. that the absent Man is cited before the Judge, and that he himself is his Proctor; and procuring the absent Man to be cited in order to defend his Cause in the Court, he

^z L. calls this the 15th Constitution.

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shews his forg'd Proxy to some Dean, or Superior, and tells him, " Because my Seal is known " to few, I desire you would put the Seal of your " Office to this my Proxy "; and by the Wages of Unrighteousness he obtains his Request. And by virtue of this false Proxy so obtain'd he engages in Suit with another, who feigns himself his Adversary, and carries on the Fraud, till at last he gets Possession by Sentence of Court; while the true Owner, whose Estate is subverted, knows nothing of the matter: Desiring therefore to obviate such detestable Frauds, we forbid every Dean, Archdeacon, and his and every Bishops Official to put their Seal to any Proxy, unless it be ask'd publicly in Court; (or out of Court, when he that constitutes the Proctor, and is known to be in truth the principal Party does personally request it,) that so all Fraud may be excluded. Whatever Dean, Archdeacon, or his Official, or Bishop's Official transgresses this out of set Malice, let him for three Years be suspended from Office and Benefice. And let the Advocate, whatever he be, who procures a false Proxy to be made, be suspended for three Years from the Office of Advocate, and be incapable of an Ecclesiastical Benefice. And if he be married, ^a or hath been ^b twice married, let him be excommunicate *ipso facto*. And let what has been done by virtue of the false Proxy be esteem'd as not done at all. And let the Proctor himself, who was the chief Actor be for ever repell'd from doing any ^c legal Act. And let all of them

^a And for that reason be incapable of a Benefice.

^b *Bigamus*, Lat. that is one that hath married a second time, or hath married a Widow, or a Woman corrupted.

^c In a large sense buying, selling, letting, hiring, entering into any Society, &c. are legal Acts, without which a Man can scarce live. But *L.* inclines to understand this

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this of judicial A&ts of Law for the advantage of the Party, and from these such Transgressors are excluded.

them upon Conviction be bound to the Party injur'd in their full Gains, and to make good all the Damages.

14. We have consider'd, that true Possessors of Ecclesiastical Benefices are often turn'd out in our Province by a diabolical Fraud; for some through Falseness and Ambition procure themselves to be presented to Benefices by the Patrons, and obtaining clandestine Inquests to be made by Deans, or others, get Possession of them; and thus the Demandant becomes Possessor, and the Possessor a Plaintiff contrary to all Justice. Now we desiring to extirpate this Villany from our Province ordain, that no Dean, or any other Prelate, except a Bishop, whose Authority we lay under no Restraints by this Ordinance, make^d Inquest in case of a Presentation unless in full Chapter, the Possessor being first lawfully cited, and so much time allow'd him as may be sufficient for consulting with wise Men, and providing for the defence of his Estate. And we decree that whatever is for the future attempted contrary to this our Ordinance be of no force. And we condemn the Dean, or Prelate that made the clandestine Inquest to satisfy all Damages suffer'd by the Possessor, and exclude the ambitious [Aggressor] for ever from the Benefice on which the Attempt was made, and suspend him from obtaining any other Benefice for three Years.

^d Call'd in the Law *Jure Patronatus*.

15. If he who turn'd the Chapmen out of the Temple had finish'd what he began, the Poor would not be defrauded by farming Contracts, which convert that to *Mammon*, which was to have

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been applied to the Bowels of *Christ*: For the cure of this Plague we firmly injoin that what was wholesomly provided concerning farming in ^e the Council of *Oxford*, be observ'd, that is that Churches be not farm'd, but for necessary Causes to be approv'd by the Bishop; and we ordain, that they be let to holy and reputable Ecclesiastical Persons, whom the Bishops may freely coerce; and on condition also, that a ^f fat Portion out of such Farms be assign'd to the poor Parishioners agreeable to the Law at the Discretion of the Bishop, which is faithfully to be distributed among them under the Testimony of four credible Witnesses of the same Parish. And that all fictitious Contracts, by which Churches are farm'd to Laymen in the pretended Persons, or under the name of Clerks, or ^g Carriers of holy Water, may be set aside, we ordain by Approbation of the Sacred Council, that if any Clerk be discover'd to be guilty of such an Artifice, he be punish'd according to the ^h Statute of *Othobon* of holy Memory, and more severely if the Prelate think fit.

^e See Const. of *Steph. Langton*, 16. 1222.

^f Not less than a sixth part *L*.

^g See the last Const. of *Boniface*, 1261.

^h See Const. of *Othobon*, 20. 1268.

16. We have found that many Religious Houses of the Order of St. ⁱ *Augustin* do not meet with the rest in their General Chapter held every third Year, according to the General Council, by reason that they formerly belonged to certain Mother-Churches beyond Sea, (from which yet they have a long time been separated) by occasion of cer-

ⁱ St. *Augustin* of *Hippo* never was the Founder of any Order of Monks, but ther was an Order that assum'd his Name.

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tain * Ceremonies receiv'd by the said Mother-Churches, by which they differ from other Houses of the same Order in the Province of *Canterbury*; and because it is a vile part which does not agree with its whole, we ordain that for the future all such Houses be admonish'd in a special manner by the Bishops, that they assemble together with the other Canons in the General Chapter to treat with them in common concerning the Government and Reformation of their Order; with a Saving to the Observance of their own Cermonies; or if ther be any notable diversity between them, and the others as to the ¹ Substantials of Religion, let ther be a General Chapter for them apart from the rest, or else let them be compell'd to do this by Ecclesiastical Censure.

* All the diversity which *L.* knew as to Ceremonies among the Canons of St. *Augustin*, was that some of them wore a Linen Rochet, and a black Cope over it, open before: Some wear nothing but white Linen, or Woollen, some a black Cope over that, close, and a Cross impress'd on it before; some go all in white with a Cross before, some go in Boots like Monks, others in large Shoes like Seculars, and they had some difference in their Food, and times of Fasting.

¹ The Substantials of all the Regulars, says *L.* consisted in an Abdication of Property, Observation of Chastity, and Obedience. But then he observes that the Ends of their Institution were very different, some for Prayer and Study, as the *Carthusians*, some for Hospitality, some for preaching (among which the *Augustinians*) some for fighting.

17. Enormous Lust is so prevailing, that some without any regard to the Laws and Canons publish'd to excite the Chastity of Nuns, commit Incest, and Sacrilege with them; for remedy whereof we lay all Clergymen, and Laymen who practise such Filthiness under Sentence of the greater Excommunication; reserving the power of absolving them

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them to the Persons of the Bishops only, except at the point of Death, at which time any Priest may absolve them; upon condition that if they recover, they do within three Months make Confession to their proper Bishops, or in the vacancy of the See to the Guardian of the Spiritualities, or the Dean of the Cathedral Church, under pain of *Anathema*.

18. Many ^m Nuns, like *Dinab* delighting in an ill Habit of wandering, frequently fall into a like, or greater Scandal: Now we consulting their Salvation rather than their Pleasure to provide against this Danger; forbid any one of them under pain of Excommunication, to stay even in company with a Sister Nun, much less without it in the House of her Parents, or Relations, much less of others, of how great Estate, Dignity, or Sanctity soever they be, above three natural Days for the sake of Diversion; nor above six Days upon any occasion whatsoever, except Sickness; unless the Bishops for some necessary Cause shall sometimes please to have it otherwise, whose Consciences we onerate in this Point in respect to the tremendous Judgment. We extend not this to Nuns who are forc'd to beg for their Necessities: And some Nuns are so far deceiv'd as that tho' they are of lawful Age, and ⁿ of Years capable of Craft, after they have liv'd, above a Year, a Monastic life among the Nuns, they think they are not profess'd, and that they may return to a Secular Life, because they have not received the

^m *L.* here says, that none of the *Englifo* Nuns that were under the care of the Diocesan, were close shut up in their Houses; tho' some that were under the Inspection of exempt Abbots were indeed confin'd, as all were to be by the Canon Law.

ⁿ *Doli capaces* were those of seven Years old and upward: The lawful Age for professing the Monastic Life was in a Woman, twelve.

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Bishop's Benediction, nor made their solemn Vow. We to remove such Mistakes, declare by Authority of the present Council, that such as have voluntarily led a regular Life in a College for above a Year be deem'd *ipso facto* profess'd; so as not to be permitted to return to a secular Life; tho' they are solemnly to be consecrated, or veil'd by the Bishop. We give the same Judgment as to Monks, and all other Religious where there is no ° Canonical Impediment; that if they have for above a Year willingly worn the Religious Habit in a Monastery, and then rejecting it return to a secular Life, they be repell'd as Apostates from Ecclesiastical Benefices; and be compell'd, as the Law requires, to return to their Monasteries. Let Archdeacons make diligent enquiry concerning these: Because we know many who have the Heart of a Wolf under the Fleece of a Sheep.

° Canonical Impediments were want of the Father's, or Husband's consent.

19. Farther, there are many who in Fact appear to be in full purpose to relinquish the secular Life, and give certain P Tokens of betaking themselves to a Cloister, who yet by the prevalency of the Flesh return to the Vomit of a secular Life, like wandring Stars: For tho' the Laws have determin'd that such as these cannot desert their religious Habit, but must at least continue in a more loose State of ¶ Religion; yet some not asham'd

P These Tokens were renouncing a Benefice, or secular Estate, taking the Monastic Habit, attending the Worship in Religious Houses, declaring their Intentions of Chastity, and Obedience, making their Tonsure larger than it was before, if they were Clerks; and it is evident that this Constitution was chiefly intended against Men that were in Orders.

¶ The Reader will remember, that Religion in this, and many other Canons signifies Monckery.

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of the Infamy of Apostasy, after they have made a shew of absolutely leaving the secular Life, turn from *Jerusalem* to *Egypt*: Therefore we ordain, that the Ordinaries diligently search after such, and reclaim them to their former State by ^r withdrawing from them both their Office and Benefice, if they have any, or compel them at least to be loose Regulars. If such Apostates are Laymen, let them be compell'd to return to the Studies of their Salvation by Ecclesiastical Censure. We extend not this Ordinance to those with whom the See of *Rome* hath dispens'd.

^r The Constitution does not say by *depriving* them, says *L.* because they were suppos'd already to have renounc'd all Benefices, *viz.* when they became Monks.

20. Religion is the rather to be guarded from secular employ, because Devotion is obstructed when the Mind by outward Cares is drawn off from the Study of the one thing: Therefore it was wholesomly provided in the ^r Council of *Lambeth*, that no Religious of any Profession whatsoever be Executors of Testaments, unless it be done by the Licence and Will of the Ordinary. We think fit to add, that no Religious be allow'd to be Executor of any Testament, unless his ^r Superior give caution for him that he shall sufficiently execute it, and give account of the Surplus, if any be, and without difficulty be answerable to the Ordinary for any Damages occasion'd by him. And

^r See the fifteenth Constitution of *Boniface*, 1261. about the middle, and the seventh of *Stratford*, 1341. *versus fin.*

^r The Superior only could give Security, because by this Constitution and by the Tenour of the Canon Law, without the Superior's leave the Monk or Canon could not be Executor, and therefore was not responsible to the Ordinary for what he did; especially if this House were exempt from the Bishop's Jurisdiction.

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because some that wear a Religious Habit, tho' they are not Executors, yet are ^a Distributors of the Goods of a Defunct by their own Rashness, or by the Imprudence of others by which the Goods of Men are embezzel'd, we give the same charge concerning Distribution, that we have above given concerning Execution. And let none in any other manner concern himself in any Execution, or Distribution under pain of *Anathema*. Therefore let them who cannot give sufficient Caution know, that they are by Authority of this Council perpetually disabled from such Execution and Distribution.

^a It appears that Testators of old did sometimes appoint one to pay their Debts, who was call'd a *Solutor*, another to pay their Legacies, and he was *Distributor*: And Men did sometimes by indirect Means thrust themselves into such Business.

21. Tho' the name of Religion be by use appropriated to the Monastic Life, [yet] the good Behaviour of Clergymen has a remarkable degree of Religious Life in it, if those things be observ'd which the Canons have decreed. But alas very many Clergymen of this famous Country imitate the Madnels of the *Jews*, who preferr'd the Fashions of the *Grecians* to those of their Fathers: They are asham'd to appear as Clergymen, and take the Military Drefs to please Fools, and provoke wise Men. And whereas the Crown is the distinguishing Mark of a Soldier of the Church, and of a Heart enlarg'd and open to the Celestial Rays, they hide their Crowns with Hairlaces, and like the *Jews* have a Veil upon their Hearts, whereby those Rays are repell'd. But we sticking to the ^x Statute of the Lord *Othobon* do strictly ordain and charge, that every Clerk in holy

^x See Const. of *Othobon* §. 1268.

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Orders have his outward Garment y unlike to Soldiers, and Laymen in its shape and comeliness. And because the said Legate against Clerks that wore Coifs and Hairlaces before their Prelates, or People; ordain'd, that if they did not reform upon a Monition, they should *ipso facto* incur a Suspension from Office, in which if they continu'd for three Months, they should then be suspended from Benefice, and not be absolv'd till they have given the ² sixth part of their Ecclesiastical Goods to be distributed to the Poor by the Hands of the Bishops, and yet be otherwise punish'd at the Bishop's Discretion: We observing how little effect this Statute hath had, because lesser Prelates dare not admonish such monstrous Clergymen, on which account they seem to have fallen into the Punishments ordain'd by the said Legate as their Pusillanimity deserves, and such Clerks seldom come into the Presence of Bishops; we ordain, that (since ignorance of the Law does not excuse

y In the original is added *anterius aut posterius non Byrrhatam*. L. who liv'd within 150 Years after Peckham could but guess at the meaning of this Expression. He says it may signify *not coarse*, or *sordid behind*, or *before*: Or it may, says he, imply that it shall not be *scissa vel complicata*, slash'd or surpled, if I mistake not, behind or before. Sir H. S. in his Glossary supposes that the meaning is, that it should not be like the *Irish* Plad. I take it to signify *not surpled*, &c. for this Archbishop in his Directions to the Nuns of Godstow has these words, *nec etiam byrrhorum immoderantiâ vestes sibi faciant latitudine fluctuantes*.

² The sixth part of that Year's Profits, says the Const. of *Othobon*; and L. does so understand the words here, and asks how this was possible, since the Offender is supposed to be suspended from Benefice? But I answer he is suppos'd first to have receiv'd one Quarters Profit, which was more than a sixth, and by the Year we may understand the twelve Months last past, before he was suspended from Benefice.

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Clergymen) such Clergymen, as often as they wore such Coifs, or Hairlaces before their Prelates, or People, do without any Monition fall under the Punishments aforesaid; unless it be in a Journey. And we command that special enquiry be made after such for the future in every Deanery, and that whatever their degree or dignity be, they be proceeded against in form of Canon.

22. Whereas it is by Law forbid, ^a that the Sons of Rectors should immediately succeed their Fathers in the Churches where they minister'd; and it is certain, that if the contrary be attempted, the Benefices are vacant; we charge that Prelates make diligent enquiry after such vacant Churches, and not delay to provide for them as the Law requires; and beware for the future, that they admit not such to Benefices by any ^b Title whatsoever; that ther be no room for Men to creep into the Inheritance of him that was crucify'd, by Hereditary Succession.

^a This was, it should seem, first forbidden by *Alexander* the third, Pope of *Rome*, after the middle of the 12th Century: Ther are ten Rescripts of this Pope all directed to *English* Bishops upon this head, standing all together, *Decretal. L. 1. Tit. 17. c. 2—11*. By one of these it appears, that the Archbishop of *York* had then Power granted him by that Pope to dispense in this Case; yet by a Decretal of Pope *Clement*, 3. 1189. a Bishop's Son lawfully begotten might be benefice'd in his Father's Cathedral. *Decret. L. 1. 3. 17. c. 12*.

^b That is Collation, Institution, or Donation, *L*.

23. In the common course of Causes we have heard from many Complainants, that some of our Fellow-Bishops when they admit such as are presented to vacant Churches refuse to grant them ^c Letters testifying what has been done: By occasion

^c Letters of Institution were given long before this. Yet *John de Ashton* in the foregoing Century supposes, that

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that Institution might be proved without such Letters, as *L.* here observes. 'Tis probable, that the reason why such Letters were denied was, that it was forbid to receive any thing for them.

sion wherof Truth often gives place to Falshood, when a dispute arises between the Parties so presented, and other Men: But we adhering to Ecclesiastical Rules which take legal Instruments for Evidences of Fact, do ordain, that every Bishop give Letters Patents to the Clerk whom he admits to a Church, testifying his Admission, and specifying among other things what Orders he has receiv'd, and by what ^d Title he is admitted to the Benefice.

^d See Note ^b as above.

24. A long Sickness tires the Physicians; an infernal Weed planted by Sons of Perdition is not easily rooted out; no one did ever at once convert the whole multitude of the wicked, but *ye shall*, says God, *destroy these Nations by little and little*. The Church of England hath been long plagu'd with false Clerks, who for worldly Glory, and out of Covetousness heaping Benefice upon Benefice contrary to Canon, and without the Pope's Dispensation; destroy Souls purchas'd with the Blood of our Redeemer, and like Thieves live an infamous Life, till being struck with the Thunder of Divine Indignation (as we have seen in many) they are taken from amongst us: We ^e forbade this Superfetation soon after our Accession, hoping gradually to cure this Plague, and that no

^e Here the *Oxford* Copy speaks in the present Tense *Inhibemus*, but this is contrary to the whole Tenor of the Constitution, or rather Declaration, therefore I follow Sir *H. S.* *L.* has not gloss'd upon it; tho' I remember he sometimes mentions this Constitution as made by *Peckham*.

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one for the future would involve himself in such a Plurality; and we used wholesom Terrours against what was past of this sort, intending by the help of God to bring them to Effect by degrees, since the Scripture says, *Thou mayst not destroy them all at once, lest the Beasts of the Earth be multiplied against thee.* The Mercy of our Redeemer hath given some beginnings of success to our Endeavours: For the unrestrain'd Licentiousness of taking Benefices without scruple is suppress'd. To some God hath given the Grace of Compunction, so as that they have prun'd away a great part of their damn'd Pluralities: Some have submitted their Superfluity to be moderated by our discretion, which has not purg'd away the Crime; for we cannot dispense in such Cases, tho' yet we have taken some small steps toward it, But we admonish once, twice, and thrice, all and singular such Possessors of Pluralities, that they freely and absolutely resign their Benefices within the space of six Months into the Hands of their Bishops, (for no delay can be granted them, when the infernal Pit is ready to swallow them, and the Mill-stone to sink them) and that they make Satisfaction, according to their Ability to the Churches so defrauded; and never for the future do unlawfully receive the Fruits of those Churches by themselves, or by others, privately, or publickly, directly, or indirectly: ^f Saving to our selves

^f Here is a saving to the personal Interest of the Archbishop, but none to that of the Pope. In the first Constitution at *Reading* ther was a saving to both, tho' to the Archbishop in the first place (which by the bye was no great Proof of his Humility or good Manners). But what was the occasion of his thus abating his zeal for the Pope? 'Tis probable, that the large payment of 4000 Marks, which the Pope exacted of him after his return to *England*, and compell'd him to pay, had cool'd his Affection to the See of *Rome*.

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the Right of providing for those Benefices, the Collation whereof is devolv'd to us by lapse of Time. Else from that time forward we shall proceed against them by the Favour of the Most High according to form of Canon. And we do not intend by this Monition to prejudice our selves, or our Fellow-Bishops, but that we may proceed against them singly in the usual method.

25. *St. James commands us to be quick to hear, slow to speak*; he only is fit to be a Leader, who has been learning from his Youth to maturity of Age. *Pythagoras's* Scholars were oblig'd to five Years silence, before they were permitted to discourse of the Heathen Wisdom. Many Advocates do not imitate this prudent Discipline, who after having heard one, or half a Book of the Law read to them, assume to themselves the Office of pleading in Ecclesiastical Causes. And because they know not what is truly Law, they betake themselves to Frauds which obstruct judicial Process: For the cure of which Disease we ordain, that no one be for the future permitted to exercise the Office of Advocate, unless he have for 8 three Years been a diligent hearer of the Canon and Civil Law. And let him give Proof of it by his own Oath, when it does not appear by any just Testimony, or by notoriety of Fact.

26. ^h The

8 L. observes, that by the Civil Law none could be Advocate but he who had for five Years studied, and supposes that this Constitution was made only with regard to little inferior Courts: But he did not think it necessary that the Advocate should have heard the Professors in the University, but only some private Doctors. That the degree of Doctors was now in being appears from the Decrees of Pope *Clement*, 5. *Clem. l. 5. Tit. 1. c. 1, 2.* By the last Decree it appears that the Bishop had power to confer this Degree, and is suspended from the exercise of this Power, if he did not give an Oath to the

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the graduated Person, that he should not spend above three thousand Turons, (which amounts to above fifty Pounds Sterling) at the taking of it: Tho' this Decree was made 1312, that is thirty one Years after this Constitution, yet the Degree of Doctor must have been of long standing, before the Expence attending it could be raised so high as this Decree imports.

26. ^h The Vice of Ingratitude is to be detested, and especially that of Subjects toward their Prelates, who watch as they that are to give account of the Souls committed to them; therefore we ordain, that when an Archbishop, or Bishop dies, every Priest as well Religious as Secular, that was a Subject to the Defunct, be bound to say all together one Mass for him. And let his Brethren, and Fellow-Bishops in their next following Congregation say an Office of the Dead in his behalf, and yet singly in their Chapels perform proper Devotions for him, as they desire it may be done for them in the like Case.

^h 'Tis unaccountable to me what thou'd prompt the Archbishop to make a new Constitution upon this Head, when the Eighth of *Reading* was much more full, and express than this of *Lambeth*. New Laws are often made to supply the Defects of old ones, but perhaps this may be produced as a singular instance of a second Law made on the same Head, but much less perfect than the first. Any Man would rather think that this was a spurious Addition. Yet *L.* calls the Constitution immediately foregoing *the last but one*: Therefore probably this hath stood here at least these three hundred Years.

ⁱ This seems evidently to be intended for a Concelebration of Mass.

Done in a Council at *Lambeth* celebrated by *Peckham*, and recited in the last Action of the said Council on *Friday* the sixth of the Ides of *October*, the Dominical Letter current *E*, *A. D.* 1281. *Indict.* 9. the first Year of the Pontificate of *Martin* the Fourth, the ninth of the Reign of the illustri-

Peckham's Statute, &c.

ous *Edward King of England*, and the third of our Consecration.

The Statute of John Peckham Archbishop of Canterbury, of an uncertain time and place.

Sir H. S. vol. 2. p. 343.

27. ^k **F**OR the Instruction of them that are, and the Memory of them who shall be. Whereas ther is a dispute between the Rectors of Churches in the Province of *Canterbury*, and their Parishioners concerning the various Ornaments, and things of the Church: Ther is here under-written what belongs to the Rectors, what to the Parishioners——Let all know, and observe in the following manner, *viz.* That ¹ the Chalice, principal Mals Vestment of the Church, Chefible, clean Alb, Amyt, Maniple, Girdle, with two Towels, Crofs for Processions, lesser Crofs for the Dead, Bier, Cense-pot, Lanthorn with a Bell, Lent-veil, Manuals, Banners, Bells, Vessel for Holy Water, with Salt and Bread, Osculatory for

^k By this it appears in general, that the Parishioners of the Province of *York* according to the first Constitution of *Walter Gray* (which Seē) were bound to find several things which in the Province of *Canterbury* were left to be provided by the Incumbents, especially all the Books, and the Vestments, excepting one Suit for the Mals.

¹ This is worded just as in *Walter Grey's* first Constitution, which see; and for Explication of the Terms, see Constitution four of *Winchelsey* Archbishop, 1305. Here is a mistake proceeding from placing the Chalice before the Missale, whereas it ought to stand as in the *Oxford* Copy of this Constitution. *Missale, Calicem, Vestimentum principale*, &c. the Missal, Chalice, principal Vestment, &c.

the

PREFACE. *Winchelsey's, &c.*

the Pax, *Easter Taper* with a Candlestick, Bells in the Steeple with Ropes, Fonts with Lock and Key, Reparations of the Body of the Church within and without, as well in Altars as Images, Glafs Windows, with the Enclosure of the Church-yard belong to the Parishioners. All other Particulars and Ornaments, with the Reparation of the Chancel within and without ought to be found by the Rectors, or Vicars according to the divers approv'd Ordinations and Constitutions.

A. D. MCCXCVIII.

P R E F A C E. *Archbishop Winchelsey's Sentences of Excommunication.*

I *N the four first Reigns after the Conquest we bear no Complaints of Taxes laid upon the Spiritual Revenues of the Churches, or Glebes and Tithes, for the Exactions of W. Rufus, or King Stephen, two arbitrary Princes are not to be alledg'd as Precedents. The Temporalities of Bishops suffer'd much during the Vacancies of the Sees, and those Vacancies lasted often many years together for the advantage of the Court: Nay these Temporalities were often seiz'd by the Royal Will and Pleasure, and much Money brought into the Exchequer by this means. But the first regular Tax laid upon the Spiritualities seems to be that, of which you have an account in the Year 1188. which was projected by the Pope, and executed by King Henry the Second, for the recovery of the Holy Land. We may be sure, that if such Demands had been usual in the former part of this King's Reign, some Terms or Conditions*

PREFACE. Winchelsey's

would have been inserted into the Articles of Clarendon upon this Head, as being the most common occasion of dispute between the Prince and Subjects. What Subsidies were granted for the Prosecution of the holy War, or for the payment of Arrears at King Richard the First's return home were demanded by the united Power of the King and Pope, and paid by the forward zeal of the Clergy and People, in a Cause which the Superstition of the Age would not permit to be disputed. The Pope was at the head of all these Exactions, and Prince, Clergy and People were then entirely at his Devotion. It is true King John in the Years 1203, and 1205 demanded Subsidies of the Clergy, but the Archbishop with his Brethren evaded, or refused them; and in the next Year when this King found them stiff in their denial, he levied a Thirtieth both on Clergy and Laity by arbitrary Force. King Henry the Third in the Year 1222, had a Subsidy granted him by all his Barons both Lay and Ecclesiastical; it was for the Holy Land, and therefore it may be presum'd that Glebes and Tithes were affected by it, and that it was done with the Pope's consent: However this was a privileged Case. Two Years after this the Archbishops, Bishops, and other Barons gave the King a Subsidy in Parliament: This did not reach the lower Clergy; therefore they were not taxed; but by the Pope's Bull every Bishop was oblig'd to assemble the Clergy of his Diocese, and there to raise Contributions for the King against rebellious Subjects.

*All this time the Pope made Depredations upon the Clergy at pleasure, and King Henry the Third assisted the Pope in his Oppression; insomuch that when the Prelates and Clergy desir'd his Assistance against Petrus Rubeus, Legate of the See of Rome in the Year 1239. the King was so far from hearkening to them, that he encouraged the Legate in his Exactions, and offer'd him his own Castles to imprison
such*

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such Prelates and Clerks as oppos'd his Demands. The King seems to have seen his Error, and certainly had greater regard to the Clamour of his Clergy and People in the Year 1246. for then he consulted with his Parliament how to restrain the Pope's Encroachments; and he probably had done something to this purpose, if Richard Earl of Cornwall had not defeated him by joining the Romish Party. Yet this very Prince twice at least after this ask'd the Pope's consent to make a Levy on the Clergy, and had it granted him by Rustandus the Legate in the Year 1255. by Othobon the Legate in the Year 1267; So did his Successor twice, (but they were for the Holy Land) in the Years 1272, 1291; when small Aids were sometimes given, it was on express Condition that they should not be drawn into Custom (as in 1275;) this supposes them to be new things. And if ther were any more Royal Levies made to this time, I must profess my Ignorance of them (I mean still on the lower Clergy, and for their Spiritual Revenues) excepting the Subsidies granted in the Year 1283. if they were indeed granted: For the Fact is not certain, or however that the Popes consent was not had if the Subsidies were granted.

And would not now any indifferent Man believe that the Kings themselves by yielding this Point to the Pope for an hundred Years together (that is from the first time that Taxes had been laid on the Clergy for their Spiritualities) had disabled themselves by their own Acts and Deeds from doing it without the Pope's Approbation. However the Clergy themselves at this time were certainly of this Sentiment; and King Edward was aware that this was their Notion: Therefore he employ'd William March Bishop of Bath and Wells, his Treasurer, to seal up and secure all the Stocks, Stores, and Granaries of the Clergy in the Year 1295; then summons the lower Clergy to come up with the Bishops, and other Pre-

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*lates to Westminster, demands of them a Grant of half their Goods: They made some demurs; but found it vain to dispute the Point with the King, and therefore ransom'd one half by giving the King the other. The next Year they were by a way never used but once before (viz. in the Year 1283) call'd to Parliament together with the Prelates and Barons, and now one third of the remaining half of their Goods was demanded; they with great difficulty prevail'd with the King to accept a Tenth; but at the same time promised to give more the next Year, and the King gave his Word that their Grievances should be redress'd. Both these Promises were equally perform'd. At the next Parliament in November at St. Edmundsbury they pleaded a Bull of Pope Boniface the eighth, which by Archbishop Winchelsey's means they had procur'd, whereby they were forbid to agree to any Taxation without consent of the holy See, (as it was long before forbidden by the Canon Law, and particularly by the two last Lateran Councils) and when this Excuse was not accepted, they referr'd themselves to a more full Assembly: For very many refus'd to obey this Lay-sammons of the King; they had time given them to Hilary next; but in the mean time their Stock and Goods were all secur'd by the King's Command; and on the other side, the Pope's Bull was publish'd: When the Clergy met at Hilary in a full Body, and persisted in their refusal, they were Out-law'd, or put out of the King's Protection, and their Goods actually confiscated; and by the advice of some great Men a Parliament (as they call'd it, tho' consisting only of Temporal Barons) was assembled at Salisbury where they are said to have consented to a Law made by the King, that if the Bishops did not comply with the King before Easter, the Laity should be forbid all Dealings with them, and the Archbishop, Bishops and Clergy in Convocation order'd General Sentences
of*

Sentences of Excommunication.

of Excommunication to be denounc'd in all Churches against all those who seiz'd Ecclesiastical Goods, and this was probably before the pretended Parliament at Sarum Exclusto Clero. If these Proceedings had been against the Laity, I am confident all the Politicians of this Age had condemn'd them as arbitrary and tyrannical: And certainly the nature of them was not alter'd by the Clergies being the only Sufferers. But the truth is King Edward's Government was so severe and illegal, that his Lay Lords could no longer endure it: And being embarrass'd with them he was under a necessity of making his Peace with the Church, as he soon did, and express'd the sense of his ill Treatment of his Clergy with Tears in his Eyes, upon the Archbishops coming into his Presence in order to a reconciliation.

The Memory of this Archbishop has been very much aspers'd of late Years, and it is very difficult in Points of so great and tender a Nature for any Man so to conduct himself as wholly to escape Censure, but so far as I can discern, he acted like a sincere Papist. In the Year 1297. he did indeed consent to a Contribution, without asking the Pope's consent, in a Provincial Convocation. But this was upon a sudden Inroad of the Scots, when there was not time to send to Rome, and when the Wars in France made all travelling thither unsafe: And this Contribution was not granted to the King, nor levied by his Officers, but collected and expended by every Bishop in his Diocese under the direction of the Primate, as was likewise done in the other Province: And the Canon Law expressly allow'd such voluntary Contributions in time of Necessity, so that no Lay Power were concern'd in collecting it, and that the Clergy gave their free consent to it. (See Conc. Lat. 1179. c. 19. Conc. Lat. 1215. c. 46.) And this same King did effectually own the Pope's Authority in this respect in the Year 1300. when he accepted a Triennial Tenth

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from him; and his Successor Edward II. throughout his Reign was willing to accept Money of his Clergy on the same Terms. And even King Edward III. in the Year 1330. was glad to share a Quadriennial Tenth with the Pope: Tho' afterwards he saw a just necessity of retrenching the Pope's Power in this respect: And for the next hundred Years our Kings hung more loose to the Pope, till Edward IV. in 1465. forbade the Pope's Legate to levy a Tenth here, tho' he afterwards compounded the Matter with him, as likewise did Henry VII. and thus by degrees the Convocation of each Province. were sufficient to give the King Money without sending to Rome for the Pope's consent: And Pope Boniface's Bull against it is declar'd to be of no Authority in the Margin of Sext. Decret. L. 3. Tit. 23. But no Archbishop perhaps liv'd, and died with greater Reputation than Winchelsey, and tho' the Pope did not canonize him, yet the People did, so far as they were able by resorting to his Tomb, and making their Oblations there for several Years, till for this reason his Tomb was pull'd down,

The struggle between King Edward, and his Clergy first, then his Lay Lords ended in a Confirmation of the Charters which he had grossly violated.

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Archbishop Winchelsey's Sentences of Excommunication.

Lat. **T**HE Sentence of Excommunication pass'd by Robert (Winchelsey) Archbishop of Canterbury, against such as seize Ecclesiastical Goods, and infringe the Articles of the great Charter and the Charter

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Charter concerning Forest, and against such as detain and imprison Clerks.

Robert ^m by Divine Permission Archbishop of *Canterbury*, P. of *A. E.* to our venerable Brother the Lord *Richard* by the Grace of God Bishop of *London*, Health, and brotherly Charity in the Lord. Sudden Necessity and Precaution do often require that Remedies provided against Dangers, but neglected, be vigorously repeated, and that new ones be apply'd; especially in things establish'd by Authority of the holy Fathers, and which cannot be omitted by us Bishops who are bound to keep them without endangering our Profession: It was lately ordain'd jointly by us and our Fellow-Bishops, in a Convocation of Prelates and Clergy celebrated at *London*, after the Feast of *St. Hilary* in the Year of our Lord 1296. and at the instigation of some of them, they were injoin'd by us in virtue of Obedience that the Seizers of Ecclesiastical Goods, and such as took them away by violence without the free leave of their Owners, or of their Bailiffs, be publickly, and in general denounc'd to be under the Sentence of the greater Excommunication by the Bishops themselves in the Cathedral Churches, and other notable places, by other idoneous Men in other Churches of every Diocese, at the command of the Diocesan. But as we have since been inform'd to our Grief, the Execution therof has been in whole, or in part hitherto omitted by some of our Fellow-Bishops to the danger of many, especially of those who were in duty bound to have done it, from which some malevolent Men have been, and will be the more embolden'd to Of-

^m The Archbishop or Bishop writing to another always styled himself by *Divine Permission*, and the Archbishop, or Bishop to whom he writes, by *the Grace of God*.

fences

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fences of this sort. And at the last renewal of the great Charters of Liberties and of the Foreſt (granted by Princes of old) our Lord the King who made this renewal, did enact and ordain that the ſaid Charters ſhould be ſent to every Cathedral Church throughout the Kingdom of *England*, and there remain, and be read before the People twice a Year; and that the Archbishops and Bishops of the Kingdom of *England* ſhould paſs the Sentences of the greater Excommunication againſt all thoſe who act contrary to the ſaid Charters by fact, help, or advice, or who infringe the ſaid Charters in any Point; and that the Bishops publiſh, or cauſe to be publiſh'd the ſaid Sentences twice a Year in their Cathedral Churches; and that the Bishops who are negligent in the Publication thereof be reprehended by the Archbishops of *Canterbury*, and *York* for the time being; and be forc'd to the Denunciation thereof by the ſaid Archbishops. We alſo, and our Fellow-Bishops there preſent, and aſſiſting us in their Pontificals at *Weſtminſter*, with the conſent of the King's Council, who was himſelf in parts beyond Sea, did ſolemnly paſs, and publiſh the ſaid Sentence of Excommunication in *Engliſh*. That therefore what has been ſo wholeſomly, and ſo very profitably ordain'd and provided may not loſe its Effect thro' concealment; it was provided and injoin'd by us and our Fellow-Bishops, and the Prelates and ⁿ Clergy of our Province of *Canterbury*, in the laſt Congregation of the Prelates, and Clergy after the Feaſt of the Nativity of St. *John* Baptiſt at the *New Temple, London*, that the ſaid Sentences of Excommunication
againſt

ⁿ This is the firſt expreſs Inſtance which I have obſerv'd of the lower Clergies concurring with the Bishops in *ordaining* any Eccleſiaſtical matter excepting what is mention'd

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mention'd by *Boniface* Const. 21. 1261. This was the second, or third time that they had been drawn to a State Convocation, and the Archbishops frequently afterwards made use of the Clergy so assembled, as if they had been call'd to a pure Ecclesiastical Synod. The Archbishop by taking the Clergies advice and consent in such spiritual Matters convinc'd them, that they were not only assembled by a spiritual Authority, but for spiritual Purposes, which was the only way to reconcile them to these newly invented Assemblies. And farther by this means the Archbishop shew'd his good Inclinations towards them, and he thought this the most proper way to secure their Affections to him; and a mutual good understanding was very necessary for both in such times. And Archbishop *Winchelsey's* Memory ought to be honour'd by all of the Clergy, who value the Privilege which the lower Clergy now enjoy in being Members of Convocation: For it was he, that next after *Boniface*, indulg'd them this Privilege, with Submission to better Judgments. Nay all that have any regard to *English* Liberties ought to pay respect to his Memory, as one of the greatest Assertors of them; and to acknowledge from this and other Instances, that if our Bishops, as well as other Barons had not known how to value and defend them, ther had been none left for those of this Age to boast of and maintain.

against the Violators of the Charters be solemnly publish'd in manner aforesaid twice a Year, *viz.* on the Feast of *All Saints*, and *Palm Sunday* in the Cathedrals by the Bishops, if it may be, else by others authoriz'd by them. Farther, because our Lord the King at the said Renewal promis'd the Prelates, and the whole Community of the Kingdom, that no Man's Goods shou'd be seiz'd in the King's Name upon any account, without the common consent of the whole Kingdom: And if it happen (which God forbid) that any Evil-doers do take, or in any wise carry away the Goods of Ecclesiastical Persons from the Houses, Granges, or other places belonging to them, and without the free leave of the Owners therof, or
of

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of their Bailiffs (which may not be presum'd, as is abovesaid, to be done by the Will of our Lord the King) it may be difficult and hurtful to the Persons so wrong'd to have recourse to their Bishops; it seem'd expedient to us and our Fellow-Bishops, and it was agreed and injoin'd by them in the said Congregation, that expresse Power be given to inferior Prelates, and also to Rectors and Vicars of Parish Churches by their Diocesans, solemnly and publickly to denounce the said Evil-doers, who do by evident Fact notoriously and manifestly do such Mischief, together with their Accomplices, to be involv'd in a Sentence of the greater Excommunication. Therefore,

1. We injoin and firmly command you our Brother in virtue of Obedience, that [ye publish] the said Sentence against Seizers on Goods of Ecclesiastical Men in every Church of your Diocese, as it was ordain'd in the first of the said Congregations, and according to the said Ordinance.

2. And do ye cause the said Sentence against the Infringers of the Articles of the said Charters, pass'd by us and our Fellow-Bishops, with Royal Consent in form abovesaid, as provided in the last Congregation, to be publish'd in times and places before mention'd, and to be throughout explain'd in order in *English*, with Bells tolling, and Candles lighted, that it may cause the greater dread; for Laymen have greater regard to this Solemnity, than to the effect of such Sentences.

3. And do ye give full and expresse Power (as was unanimously agreed in the last Ordinance) to inferior Prelates, Rectors, Vicars, and also to Chaplains of Parishes publickly, and by name to denounce the Evil-doers aforesaid, and in the solemn manner before mention'd, involv'd in the Sentence of the greater Excommunication; that is the Seizers and Invaders of Ecclesiastical Goods;
if

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if any for the future do in the places belonging to these Prelates, or in the Parishes belonging to the Rectors, or Vicars, invade, seize or take away such Goods, or be the cause of having it done by notorious, evident Fact: Provided always, that the Rectors, Vicars and Priests do not thus proceed, but when the Fact is evident and notorious, and the Testimony sufficient: And for the suppressing the Iniquity of perverse Men, let the Celebration of Mass be stopt while such Evil-doers thus solemnly denounc'd by Name are present; and let them be solemnly denounc'd excommunicate every *Lord's-day*, and Festival, and let them be ° depriv'd of the Communion of the Faithful by a Prohibition therupon to be made, till they be absolv'd from that Sentence; having first made Restitution of what was taken away, and after that due Satisfaction. And when due Information of any such Evil-doings hath been made to you by any of your Subjects, or comes to you by common Fame, do ye cause full and speedy Justice to be done by punishing such Evil-doers, and their Fautors, and Accomplices by Canonical Coercions, with all diligence and sharpness; as likewise all such as communicate with them knowingly after a sufficient Prohibition.

° All thus excommunicated were deprived of the Communion of the Faithful, and those Faithful who knowingly conversed with them were to be excommunicated by all the Laws of Discipline that were ever used: But by the Council of *Lyons* in the Year 1245. a distinction was made: And they who were thus guilty of conversing with Excommunicates, were to be censured with an Excommunication of the lesser sort: But if a Prohibition were publish'd against conversing with them, then the Penalty of the Offender was the greater Excommunication. See *Sext. Libr. 5. Tit. 11. c. 3.*

4. And do ye cause the same Sentence of Excommunication

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communication in the same solemn manner to be publish'd against all those who rashly lay violent Hands on Clerks : And if the Iniquity of any proceed so far, as 'tis fear'd it may, that Prelates, Rectors, Vicars, or Priests of Churches, or any other Ecclesiastics whatsoever be taken thro' occasion of the Premises, or any of them by a Lay-power, or be kept in Prison, or Custody in any wise, we injoin you in virtue of Obedience (as it was also ordain'd by the Prelates and Clergy in the said last Congregation) that the places in which [the Ecclesiastics] so taken are detain'd, and the four next neighbouring Churches under your District, be forthwith laid under an Ecclesiastic Interdict, and that they so remain so long as the Parties so taken be there detain'd. And yet farther, let the Captors and Detainers of them, and they who authorized them be solemnly denounc'd excommunicate with the greater Excommunication on every *Lord's-day* and Festival, after the wicked Fact is committed in all Churches of your Diocese at high Mass, before the Clergy and People with Bells tolling and Candles lighted, that the Solemnity may be the more dreaded. And that this may come to the knowledge of all, let it be explain'd in *English* till the Excommunicates be absolv'd from that Sentence by a competent Judge Ecclesiastical in the form of the Church after having first made due Satisfaction.

5. And because the solemn Processions and Prayers which we long since ordain'd to be made throughout every Diocese, for the *Holy Land*, and for the Peace, Tranquillity and Prosperity of the Church, the King, and Kingdom, have been negligently [perform'd] in many [places] and [in others] omitted to the danger of many, as we are inform'd; from which, if done, great advantage might be expected; and our Lord the
King

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King of late requir'd by his Messengers in the said last Congregation, that Prayers shou'd be made for him and his in the present Expedition, which he hath undertaken against the Enemies of himself and of the Kingdom; and also that we wou'd cause the *Scots* and their Accomplices to be publickly denounc'd Excommunicate throughout our Province as who have presum'd and do still presume, as they say, violently to invade the Churches and Ecclesiastical Places of the Kingdom of *England*, and to burn them, and sacrilegiously to take away Ecclesiastical Goods, and openly to infringe the Peace of the Kingdom and Church of *England*; we therefore command and injoin you as before, [to perform] the said Processions and Prayers for the *Holy Land*, and the Peace of the Kingdom, and Church of *England*, as also especially for our Lord the King, and such as follow him in his present Expedition; as also the Denunciations of the Excommunications aforesaid throughout your whole Diocese at all times and places as ye shall See expedient; and that ye do it in a solemn manner in your own Person so far as ye ought; and that ye cause the rest to be done by others. And do ye execute all these particulars with such vigilance and concern, that by this means the State of the Church may be reform'd for the better, and that ye may add to the Heap of your own Merits. Do ye also (so far as concerns you) at all seasonable times cause enquiry to be made throughout your whole Diocese, whether the Premisses have been observ'd in manner aforesaid by your Subjects. And do ye once a Year at least certify us in due manner of what has been done by you and your Subjects by your Letters Patents containing a Copy of these Presents. Dated at *Osteford* 6th Ides of *July* in the Year of our Lord 1298, and of our Consecration the 4th.

Y

A. D.

A. D. MCCC.V.

*Archbishop Winchelsey's Constitutions
at Merton.*

Sir H. S. vol. 2. p. 431.

Lat. **T**HE Provincial Constitutions of Lord *Robert de Winchelsey* Archbishop of *Canterbury*, publish'd at *Merton*, A. D. 1305, in the 33^d Year of the Reign of the illustrious King *Edw. I. Clement V.*, who translated his See to *Avignon*, sitting in the Apostolical Chair.

1. *This is the same with the second Constitution of Walter Gray Archbishop of York, A. D. 1250: The most observable Variations are there mentioned.*

2. Because many Controversies arise concerning Tithes, and the Feed of Cattle between Rectors of Churches by reason of the removing of Cattel from Parish to Parish at several Sealons of the Year; we desiring to prepare the way of Peace do ordain and decree, that the Tithes of Wool, Cheefe, and Milk be entirely paid to those Churches in whose Parishes the Sheep feed and couch for a constancy from Shearing-time till *Martinmas*,^p in proportion to that time altho' the Sheep be afterwards remov'd and shorn in another Parish. And to prevent Fraud, we charge in this Case, that before the Sheep be remov'd, or taken out of their Pastures, sufficient Security be given to the Rectors for paying the Tithes; and if within the said space they are remov'd into several Parishes, let

^p *Decima lana, &c. ejusdem temporis L. & Oxf. ejusdem temporibus.* *Sir H. S.* It must I conceive be understood as here translated, to make this Clause consistent with the rest of this Constitution, and with the foregoing Constitution.

each

Winchelsey's *Constit.* &c. MCCC.V.

each Church receive Tithe in proportion to the time, no account being had of any space less than thirty days. If for the whole of the aforesaid time they couch in one Parish, and feed in another for a constancy, let the Tithe be divided between the Churches. If after the Feast of St. *Martin* they are carry'd to other Pastures, and till the time of shearing feed in one or several Parishes, either in the Pastures of their Owners, or any others, let the feeding be appraised according to the number of Sheep, and let Tithes be demanded of the Owners according to those Appraisements. Let Tithes of the Milk and Cheese arising from Cows, and Goats be paid where they couch and feed: Or if they feed in one Parish, and couch in another, let the Tithes be ⁹ wholly divided between the Rectors. Let Lambs, Calves, Colts, and other decimable Younglings be tithed proportionably with a regard to the several places in which they were begotten, born, and fed. We leave to the custom of Places what is due where the Milk for the small number of the Cows, or Sheep is not sufficient for making Cheese, and what for Lambs, Calves, Colts, Fleeces, Geese, or such things as are too small to pay a certain Tithe. If Sheep are kill'd, or die by chance after *Martinmas*, let the Tithe be paid to the Parish Church. And if Sheep belonging to one Parish are shorn in another, let the Tithe be deliver'd to the Rector of the Parish [where they are shorn] unless it can be shew'd that Satisfaction hath been made for the Tithe elsewhere.

⁹ Not equally, says *L.* for most is due to the Parish where they fed.

3. Because we desire to extinguish the disputes which often happen between Rectors of Churches and their Parishioners, we ordain, that if a Man

MCCCV. Winchelsey's *Constit.*

at his death have three Animals, or more among his Chattels, of what sort soever they be, the second best be reserv'd for the Church where he receiv'd the Sacraments while alive, the very best being kept for him, to whom it is due by Law.

4. That the Parishioners of every Church in the Province of *Canterbury*, may for the future certainly know what Repairs belong to them, and they may have no disputes with their Rectors, our Will is, and we injoin, that for the future they be bound to find all the things underwritten, that

The Reader is to know, that we have six several Copies of this Constitution of Archbishop *Winchelsey*. I have chosen to follow that of *L.* in my Translation; yet this differs considerably from that which stands in the Edition of this Council printed at *Oxford*; for in this last all the Books before the Missal are omitted at the beginning, and added toward the end of the Constitution, but the Manual wholly pass'd over in silence. After *Chefible* it adds Alb, Amyt, Stole, Maniple, Girdle, which in this Constitution as publish'd by *L.* are mention'd only as *Appendages* of the Cope. After the Censer it adds *cum nave, & Thure*. For *Osculatorium* it has *Tabulas pacis ad Osculatorium*. It adds to the *Roches* the words *sine manicis*. It wants the last Clause concerning what is to be found by Rectors. But ther is another Copy of this Constitution coming after the Council of *Merton* in the *Oxford* Copy, which agrees in the main with *L.* the most observable differences are, that it has *Psalteries* and *principal Vestments* in the plural number, and mentions a Chrismatory after the Pyx; but the Title in this Copy intimates, that some attribute this Constitution to *Sim. Iselip*, whereas *L.* positively ascribes it to *Winchelsey*. Sir *H. S.* has three Copies of this Constitution, the first is in course in the Council of *Merton*, pag. 433. and agrees in Substance with the *Oxford* Copy of the Constitution in the said Council. The second is in pag. 434. and agrees with *L.*'s Copy, and the second *Oxford* Copy, except where this last differs from *L.* Ther is a third Copy in the same Page of Sir *H. S.* which is in the main the same with

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with that of *Peckham's*; but after *Glas Windows*, it adds *Pyx* and *Chrismatory*. I am humbly of Opinion, that Archbishop *Winchelsey* did thrice publish this Constitution, first in his Provincial Visitation, and this was that Publication last mention'd: He then enforced it as the Constitution of his Predecessor *Peckham*. Secondly, In this Council of *Merton*, in which he made considerable Additions to it: Thirdly, In some unknown Council, he finish'd it, and this finish'd Constitution is glossed by *L.*

that is, a ^f Legend, an ^t Antiphonar, a ^u Grail, a ^p Psalter, a ^x Troper, an ^y Ordinal, a ^z Missal, a ^a Manual,

^f Or *Lectionary* containing all the Lessons, whether out of the Scriptures, or out of other Books that were to be read throughout the Year. In the Constitution of *W. Cantelme* of *Worcester*, Sir *H. S.* p. 241. the *Breviary* stands for the *Lectionary*: Yet some say that the *Breviary* of old was only the Rubric of the several Offices, which as part gave name to the whole in After-times. See *Quesnell's Observ. on Brev. Mont. Cas. in Petite Theod. Panit.*

^t A Book containing all the *Invitatories*, *Responsories*, *Verses*, *Collects*, and whatever was said or sung in the *Quire*, call'd the *Seven Hours*, or *Breviary*, except the *Lessons*. Two of these *Antiphonars* cost the little Monastery of *Crabbuse* in *Norfolk*, twenty six Marks in the Year 1424. Sir *H. S.* says this would make fifty two Pounds according to the value of Money in his Age: I am of Opinion that he laid it too low, and that it would be above eighty Pound, according to the present value of Money. By this the Reader may make some Estimate of the vast charge of Books in the Ages before Printing; and that therefore this was a very heavy Expence to the several Parishes of the Kingdom. See Sir *H. S.'s Gloss. Antiphonar*. The common Price for a Mass Book was five Mark, the Vicars yearly Revenue.

^u *Grail*, *Gradale*, all that was to be sung by the *Quire* at High-Mass was contain'd in this Book, the *Tracts*, *Sequences*, *Hallelujahs*, the *Creed*, *Offertory*, *Trisagium*, &c. as also the Office for sprinkling the holy Water.

^x *Troper* contain'd the *Sequences* only, which were not

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not in all Grails. The Sequences were Devotions used after the Epistle, in which he that serv'd at Mass was oblig'd to perform his part.

^y Ordinal was the Book in which the method, or manner of performing Divine Offices was contain'd, the same I take it with the *Pie*, or *Portuis*, sometimes I conceive call'd *Portiforium*.

^z The whole Mass-book used by the Priest.

^a Manual, a ^b Chalice, the ^c principal Vestment, with a ^d Chasuble, a ^e Dalmatic, a ^f Tunic, and with a ^g Choral Cope, and all its ^h Appendages, a ⁱ Frontal for the great Altar, with three ^k Towels, three Surplices, one ^l Rochet, a Cross for Processions, a ^m Cross for the Dead, a Censer, a Lanthorn, a Hand-Bell to be carried before the Body of *Christ* in the Visitation of the Sick, a

^a Manual is now, I conceive, call'd the Ritual, containing Rites, Directions to the Priest, and Prayers us'd in administering Baptism and other Sacraments, and Sacramentals, Blessing Holy Water; and as *L.* adds, the whole Service us'd at Processions.

^b The Cup for the Wine, and Water, with a Cover which was the Pattin.

^c That is the best Cope for the most solemn Holy-days.

^d The Garment worn by the Priest next under the Cope, which was call'd also the Planet.

^e The Deacons Garment.

^f The Sub-deacons Garment.

^g That is a Cope not so good as that to be used on Festivals, but to be worn by the Priest who presided at the saying, or singing the Hours.

^h *Viz.* the Alb, Amyt, Stole, Maniple, Girdle.

ⁱ A square piece of Linen Cloth covering the Altar, and hanging down from it, otherwise call'd a Pall.

^k *L.* says ther ought to be four, and cites for it *de Consecr. dist. 2. c. 27.*

^l Rochet is a Surplice, save that it hath no Sleeves, but was for the Clerk that serv'd at Mass, or for the Priest when he baptised Children.

^m To be laid on the Coffin, I conceive, or the Corps when it was brought to the Church.

Pyx

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Pyx for the Body of *Christ*, a decent Veil for *Lent*,
Banners for the Rogations, Bells with Ropes, a
Bier for the Dead, a Vessel for the blessed Water,
an ⁿ Osculatory, a Candlestick for the Taper at
Easter, a Font with Lock and Key, the Images
in the Church, the chief Image in the Chancel,
the

ⁿ The Osculatory was a Tablet, or Board, ('tis *asser*
ad Pacem in the Constitution of *Gilbert Sarum*, Sir *H. S.*
p. 363.) with the Picture of *Christ Jesus*, the Virgin, or
the like, which the Priest kiss'd himself, and gave to
the People for the same purpose after the Consecration
was perform'd instead of the ancient Kifs of Charity.
L. shou'd certainly have added the *Chrismatory*, which
was a necessary part of the Furniture of every Church,
and which was the small Vessel in which the Chrism,
or holy Ointment for anointing Persons in Baptism was
contain'd. See the first Note of this Constitution.

I must add *L.*'s Observation, that the People are ob-
lig'd to find but one Book of each sort, and most Par-
ticulars are express'd in the singular number, from
which he concludes, that if more were necessary the
Incumbent must provide them.

It is somewhat strange that here is no mention of
Organs among the Furniture of the Church. It is cer-
tain they were in use long before this time; *Durandus*
in the former Century not only mentions them, but
contends for the Antiquity of them, tho' his Arguments
do not seem decisive to judicious Men. It seems very un-
accountable that *Thomas Aquinas* shou'd declare that *the*
Church had not assum'd Musical Instruments for the Praises
of God, 2æ. Q. 91. A. 2. I am of Opinion he only means
that the Church had not establish'd the use of them by
any Decree, Law, or Canon: And this may be said of
the Church of *Rome* at this Day: Even the Council of
Trent takes no farther notice of them, but only to *for-*
bid any thing that was lascivious or impure in the Music,
either of the Organ or Voice: And I can find no mention
of Instrumental Music in the whole *Corp. Jur. Can.*
But tho' the Church had never authoriz'd the use of it,
yet Clergy and People had by unanimous consent vo-
luntarily taken it up: And it is continu'd among the
Protestants as well as among the Papists on the same Foot-

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And I conceive it will be impossible to reconcile what is said by *Durandus* concerning the Antiquity of Church Music, and the use of it in his time to the Affirmation of *Aquinas* upon any other foot. For these two great Writers were for many Years alive together, and *Durandus* was made Dean of *Chartres* the same Year that *Aquinas* died; and therefore he could never have suppos'd that Church Music was ancient, if it had been introduc'd since *Aquinas* wrote his Sums. The reason why we know not the beginning, and have no account of the continuance of this, as of other things thro' the several Ages of Christianity, was, that the Church never made any Laws or Canons about it, but it was taken up and carry'd on by the *tacit approbation* of all: If any Opposition had been made to it, this wou'd have given occasion for Writers to have spoken more largely of it. I wou'd not be understood to mean that what we now call the Organ, and which is named *Torselli* among the *Italians*, is of any great Antiquity. I readily grant, that this was later than the date of this Constitution, and was first invented by *Summus* 1312. But I see no cause to doubt but other Instrumental Music, and such as then pass'd under the name of *Organ* prevail'd long before: But still by Permission only, not by Injunction. And whatever some Antiquarians have said to the contrary, it is certain *Clem. Alexandrinus* allows of it; and that not only in private, but in the Church. *Pedag. L. 2. c. 4. versus Finem.* And I see no more reason for saying that Instrumental Music is of *Jewish* Original in the Service of God, than that Vocal Music is so. They both bear the same date. In saying this I plead not the Cause of the Church: For she no where requires Instrumental Music, nor do indulge my own Temper, for I am perfectly unmusical: But I thought it a piece of common Justice to say thus much in behalf of the Sons of *Jabal*.

the Enclosure of the Church-yard, the Reparation of the Body of the Church within and without, the Images, and Glass-windows, the Reparation of Books, and Vestments as occasion shall be. The Rectors and Vicars of the Places are to repair all the rest, the Chancel, and whatever is
here

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here omitted, ° or they to whom it belongs at their own Cost.

° This is in *L's* Text only, who tells us it was intended for such as were neither Rectors, nor Vicars, and yet bound to some things not here express'd, as in case a dying Person operate his Heirs with this Expendence: He observes that in *London* the Parishioners repair'd the Chancels, and provided Lights for the Church at their own Expendence; and that in some Places the Vicar found only two Candles.

§. Let not *P* Stipendiary Priests, or any other Priests who live upon their own, or are maintain'd by their Friends, and now celebrate divine Offices in the Province of *Canterbury* receive any Oblations, ¶ Portions, Obventions, † Perquisites, Trentals, or any certain part of them, especially Oblations for the † Bodies of the Dead, when present, without the Licence of the Rectors, or Vicars of the Churches; nor carry them away to the prejudice of the Rectors, or Vicars, or their Substitutes, lest they incur the Sentence of the greater Excommunication † already pass'd. And we decree, that such Priests be present in the Chancel, not the Body of the Church, Church-yard, or Fields,

P Stipendiary Priests are such as have no Tithe in the Church, says *L* but are maintain'd by saying Masses, or doing other Offices in the Church.

¶ That is a third, fourth, or fifth share of the Oblations.

† Lat. *Denarios pro requestis*, or *Denarios perquisitis*; both Phrases are us'd in this Constitution; the meaning is Pence given for the Commemoration of any departed Soul in the Offices of the Church.

† Meaning for the Souls of the Bodies brought to Church in order to be buried.

† In the Council of *Oxford* under *Langton*, 1222. Constit. 1. for such were deem'd Invaders of Ecclesiastical Rights: Yet *L.* is willing to allow them one Penny.

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at Mattins, Vespers, and other divine Offices at proper Hours in Surplices purchas'd at their own Cost. And if they are reprov'd on this account by the ^u Presidents, let them not malapertly lift up themselves against them, or excite others to protect them. And they ought to be injoin'd in Virtue of Obedience to be present at the said Hours, and join in reading, singing, and Psalmsody. Let the said Priests on *Lord's-days*, Festivals, or when a dead Body is there present, begin their Masses after the Gospel at High-Mass is ended; not before, unless they have first ask'd and obtained leave of the Rector, Vicar, or other President. Let the said Priests on the *Lord's-day* or Festival after their admission, swear before the Rectors, or Vicars, or their Deputies at High-Mass, (or otherwise before the Ordinaries) on the holy [^x Books, or Relicks] lying ^y open, on which they are to have their Eyes fix'd, that they will do no damage to the Churches, or Chapels, or the Rectors, Vicars, or their Substitutes, or to any ^z Party concern'd as to the Oblations, Obventions, Perquisites, ^a Trentals, or other Rites whatever they

^u That is the Rectors, Vicars, or their Substitutes, that is the Curates.

^x Lat. *Sacrosanctis* without a Substantive, but I take the additional words from *L.*

^y Lat. *apertis, & inspectis Sacrosanctis*. The *Oxford* Copy has *inspectis, & tactis*, Sir H. S. *apertis & tactis coram ipsis*. But both these Copies last mention'd are apparently full of Mistakes in these Constitutions; therefore I follow *L.* and Archbishop *Courtney's* Rehearsal of this Statute in the *Oxford* Copy, p. 6. who particularly observes that *tactis* is not, or ought not to stand in this Text, and that therefore it is not a corporal Oath; for the touching the Book, or Relicks made it corporal.

^z The Farmers, says *L.* may here be meant.

^a What was paid for saying a Mass for a Soul departed for thirty Days together, or on the thirtieth Day only says *L.*

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be, or however call'd; but that they will to their Power secure and preserve them from damage in all and singular the Premisses. Let them especially swear not to raise Hatred, Scandals and Contentions in any wise between the Rectors and Parishioners; but to their Power promote Concord between them. We farther will and command, that the said Priests presume not to celebrate in such Churches, or Chapels, till they have been sworn in this form; if the Rectors, Vicars, or others aforesaid will and require them to be so sworn: And we decree, that if any Priest presume to officiate contrary to this Prohibition, he do by that means incur an Irregularity, besides other Punishments which the Canons ordain to be inflicted on the Violators of Constitutions. And if the Chaplains aforesaid being so sworn before any competent Judge be afterwards convicted by lawful Proof of having broken their Oath; or being defam'd on that account cannot purge themselves, let them be wholly cashier'd and interdicted from the Celebration of divine Offices within our Province, as being perjur'd; till they are dispens'd with in a ^b Canonical manner. And we ordain, that the said Priests do not hear the Confessions of the People ^c belonging to the said Parishes, or Chapelries of the Churches wherein they minister, unless in cases ^d allow'd by Law: And if they transgress, let them incur the ^e Crime of Sacrilege, unless they do it by the leave of the President first ask'd and obtain'd. And let them

^b By the Pope.

^c Lat. *Parochianorum vel Capellanorum*.

^d That is at the point of Death, when no other Priest can be had, or by a Papal Dispensation, or the Incumbent's Licence.

^e This was call'd Sacrilege against an Ecclesiastical Person, the Penalty was Excommunication *ipso facto*.

not

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not be guilty of Detraction toward the Rectors, or Vicars of the said Churches, or Chapels where they celebrate, but behave themselves with Reverence and Humility. But the said Rectors, Vicars, and Substitutes ought favourably to receive the said Oath; and to keep in their Churches a written Copy of the Premisses, and of other Statutes made to this purpose. [§] And they shall not keep Taverns, Shews, Stews, or unlawful Games.

[§] *L.* has not this last Clause: Sir *H. S.* places it more aptly after *Reverence and Humility*, and I once for all observe to my Reader, that the Series of several Clauses in this Constitution is not certain.

6. Holy Church hath ordain'd, that Prelates and Ordinaries reclaim Heretics, and such as are wavering in the Catholic Faith to Ecclesiastical Unity, and compel them to continue in the Faith, to which they are call'd. We understand that some Parishioners are perverted to Heresy and Distrust, relinquishing the Articles of the Christian Faith, opposing Ecclesiastical Liberties, they impudently attempt to rob the Church of her Right, by retaining Tithes due by Law to the Churches, and withdrawing other Church Dues. And he who does not, when he can revoke another from Error, shews that he is not himself free from it: When therefore the Church, and the Rectors of Churches do not force such Sons to pay their Tithes, they destroy both their Sons and themselves. Whereas therefore by the command of holy Scripture Tithes are to be paid of all things yearly renewing without any diminution, without excepting any time, it is therefore allow'd to every Parish Chaplain to compel his Parishioners to pay Tithes by Ecclesiastical Censure. Therefore we on account of the daily defects and malice of Men command you all
by

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by Virtue of Obedience, that ye diligently admonish, and effectually persuade, or that every one of you in your several Parishes, cause your Parishioners to be persuaded, entirely to pay the Tithes here under mention'd; that is to say Tithes of Milk from the time of its first renewing, and in the Month of *August*, as well as in all other Months, of the Profit of Woods, Mast, Trees if sold, Parks, Fish, Stews, Rivers, Ponds, ^h Fruit of Trees, Cattel, Pidgeons, Seeds, Fruits, ⁱ Beasts in Warrens, Fowling, Gardens, ^k Court-yards, Wooll, Flax, Wine, and Grain, Turfs, where they are dug and made, Swans, ^l Capons, Geese, ^m Ducks, Eggs, Hedge-rows, Bees, Honey, Wax, Mills, what is caught by Hunting, Handicrafts, ⁿ Merchandise; as also Lambs, Calves, Colts, according to their values. And let competent

^g Upon what pretence the People pleaded Exemption from paying Tithe of Milk in *August*, *L.* does not inform us. Probably it was because this was the principal Harvest Month, and Men thought it too much to pay Tithe of Milk, while they were paying Tithe of Corn, and fed their Harvesters with the Milk.

^h Here *L.* has *Trees* only, and by this word understands Trees of the longest growth, and labours to prove that such Tithes ought to be paid.

ⁱ Wild-Beasts, says *L.* and affirms Tithe of them to be due, if they are kept, or guarded.

^k Where Herbs and Flowers grow.

^l The *Oxford* Copy adds Peacocks.

^m In our Parts says *L.* Tithe is paid both of the Eggs and Guls of Ducks.

ⁿ Here *L.* takes pains to prove that the Farthing paid for every ten Shillings of yearly Rent in *London* on every *Sunday*, and Holiday that had a Vigil, was not intended as a Composition for personal Tithes, or as a Tithe of their Merchandise, which therefore he affirms to be due over and above the said Farthings.

N. B. 'Tis not necessary to suppose that all these six Constitutions were made in the same Council, nay, 'tis probable they were not.

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Satisfaction be made for the Profits of all other things to the Churches whereunto they belong by Law; no Deductions being made on account of paying Tithes, excepting only in Handicrafts and Merchandise. And if Men out of Contempt do not obey their Monitions, let them compel them to the payment of them by the Sentences of Suspension, Excommunication, and Interdict.

A. D. MCCCVIII.

Archbishop Winchelsey's Constitution.

Some Excerpta concerning Matrimony taken from the Synod holden at ° Winchester, A. D. 1308. by Robert Winchelsey Archbishop of Canterbury, extant in the Oxford Copy only.

° Ther is no mention of this Council, or of the following *Excerpta* any where, to my knowledge, but in the *Oxford Copy* of the Provincials.

WE forbid & Abjurations of such Women as have been corrupted by Fornication for the future. But let the Offenders be bound with an Oath, that if hereafter they confess, or are convicted of having been guilty of a Relapse, they will without Contradiction submit to a corporal Punishment to be determin'd by the discretion of the President, due consideration being had of the Condition and Circumstances of their Persons. But if they have incurr'd that Punishment, and are convicted, or do confess that they have relapsed a third time, then let the Man and Woman contract

& It should seem it had been the practice of Ecclesiastical Judges in case of Conviction for simple Fornication

Supposed Constitutions of, &c.

tion, to oblige both Parties to abjure Familiarity with each other for the future: But this, as might easily have been foreseen, prov'd inconvenient, therefore instead of forswearing each others Company, they were to promise on Oath quietly to submit to corporal Punishment, in case they should be convicted a second time. But the Punishment of the third Conviction was a mutual Contract, on Condition they offended the fourth time. This was done upon Supposition that such a Contract was to one of the Parties at least, a greater Punishment than bodily smart: And it may be so no doubt in many cases. And a Conviction of a fourth Relapse does sufficiently shew that one, or both Parties thought Marriage a greater Punishment than any Penance that the Court could injoin. A neighbouring Nation suspected by none for want of Wit make Matrimony the Punishment of Fornication, in case an Impregnation be the consequence of it.

Contract in this form, *I do from this time forward take thee for my Wife, if I shall hereafter carnally know thee: And let the Woman answer, I also take thee from this time forward for my Husband, if I shall hereafter be carnally known by thee.* And that what has been done in such cases may more certainly be known, we charge that this Form of Contract be drawn up in Writing: And we charge that this Form of Contract be duly observ'd without contradiction, as in true Contracts.

A. D.

Supposed Constitutions of Archbishop Reynold's.

THER is in Sir *H. S.* vol. 2. p. 489, &c. a Collection of eight Constitutions attributed to *Walter Reynold* Archbishop of *Canterbury*: But the main of them are indeed the Constitutions of
of

Supposed Constitutions

of *John Stratford* Archbishop of the said Province.

1. The first is the fifth Extravagant of Archbishop *Stratford*, in which he cites a Constitution of *Simon Mepham*, who succeeded *Walter Reynold* in the Archbishoprick, and therefore could not make Constitutions to be cited by his Predecessor.

2. The second is part of the sixth Extravagant of the said *John Stratford*.

3. The third is the third Extravagant of *John Stratford*, save that no Provision is made for the Official, if he induct the Clerk.

4. The fourth is the second Extravagant of *John Stratford* curtail'd.

5. The fifth I find no where else, and it contains somewhat particular, and therefore my Reader shall have it here. It ^a is the Complaint of many that secular Judges and others make an Objection of ^r Bigamy against Clerks when they are taken and imprison'd for their Crimes, and demand to be sent to the Ecclesiastical Court; and so usurping and unduly executing a Cognisance of this Case by a Jury of Laymen, they stick not to hang Clerks; altho' the Cognisance and Trial of Bigamy ought to belong to the Ecclesiastical Court, as depending on the validity of Matrimony; since the Secular Court cannot judge of Matrimony, and such Matters as receive their Effects from Matrimony, as Dowry and Bastardy. Farther he

^a It is probable this was only a Rough-draught never enacted, or else it hath met with miserable Transcribers: For it is without any proper Syntax, especially as to the former part of it, tho' the Sense is not very difficult.

^r A Clerk that had successively married two Wives, lost all his Privilege by the Canon Law. Therefore Secular Judges thought they might safely treat such as Laymen, but this could not be born.

who

of Archbishop Reynolds.

who marries a ^f Widow, or two Women oftentimes does not contract Bigamy according to them, and they do not esteem some to be Bigamists, who really are so. Sometimes also Clerks, tho' neither caught in the Fact, nor convicted, are taken by a Lay-power and kept in Goal as Criminals, or suspected of Crimes, or personal Injuries, and not resign'd to their Ordinaries when they demand to have them freely tried according to the Canons; by which Ecclesiastical Liberties are confounded while Clerks are judg'd by Laymen; and they sentence Men for a Fault, who are perfectly ignorant of it: Therefore we ordain that if such as affirm themselves Clerks being taken and imprison'd, on the account that Bigamy is objected against them, or if other Clerks found in Possession of their ^t Clerkship are imprison'd, that then the Detainers of them who refuse to resign them at the request of the Ordinaries be publicly denounc'd excommunicate. Let the Cities, Castles, Vills, and Places of our Province, where Clerks have been condemn'd to death on account of Bigamy, and in which Clerks being detain'd have not been deliver'd at the request of the Ordinary, and the Lands of the Detainers suffer Ecclesiastical Interdict till they are surrender'd to their Ordinaries, and competent Satisfaction be made by their Proceedings in the Premises. Let such as contrive and charge Clerks with feigned imaginary Crimes, for which they are taken and unjustly detain'd, be publicly denounc'd (as they are) excommunicate.

^f He who married a Widow, or a corrupted Maid was a Bigamist according to the Canon Law, or rather was treated as a Bigamist: our Temporal Courts did not allow of this.

^t That is Tonsure and Clerical Habit.

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6. The sixth is the first Extravagant of *John Stratford* with some Alterations, which the Reader shall have in their proper place.

7. The seventh is the seventh Extravagant of the said *John Stratford*, but curtail'd.

8. The eighth is the eighth Extravagant of the said *J. S.* with small Variations. The following Constitutions are not in Sir *H. S.*

A. D. MCCCXXII.

Archbishop Reynolds's Constitutions.

Lat. **T**HE Provincial Constitutions of the Lord *Walter Reynolds* Archbishop of *Canterbury*, publish'd in the second Council holden at *Oxford*, A. D. 1322. in the sixteenth Year of the Reign of King *Edward II.* *John* the one, *alias* two and twentieth being Pope.

1. How reverently, contritely, and devoutly Men shou'd go to the Sacrament of Order, is shewn by this, that it is conferr'd by none but the High-Priest, that is the Bishop, and at certain places and times, with fasting, not only by such as are to be ordain'd, but by all the People: Therefore regarding the Canons we forbid any to come, or be admitted to Orders without Canonical Examination. Let no lesser Clerks be admitted to the inferior Degrees, unless they have proper ^u Presenters, and upon their Testimony let them be admitted. Let no Simoniac, Manslayer, Excommunicate, Usurer, sacrilegious Person, Incendiary, Falsary, or any one under a Canonical Impediment

^u Proper Presenters of Secular Clerks are the Archdeacons; of Regulars their Abbots, Priors, &c. L.

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presume to go into any Orders whatsoever; nor let him in any wise be presented or admitted to them. Let not such as have been ordain'd in *Ireland*, * *Wales*, *Scotland*, or elsewhere, without Letters Commendatory, or Dimissory from their own Ordinaries, be admitted by any one within our Province to officiate, unless in case of great necessity; and that even they be dispens'd with by a ^y sufficient Authority, or their Order so taken be ratify'd by the Ordinaries. Provided notwithstanding that they be in no wise admitted without good Evidence of their having been ordain'd, and of their good Life and Learning. And we charge, that Priests unknown ^z, that have no Evidence of their Ordination be not admitted to celebrate divine Offices in Churches, without the ^a Licence of the Diocesan Bishop, after they have given sufficient assurance of their Ordination, by Letters Testimonial, or by the Testimony of good Men. And we injoin ^b Abbots, and Priors not to cause their Monks and Canons to be ordain'd by any other Bishop, except the Diocesan, unless it be done with the Letters Dimissory of

* Sure the Archbishop had forgot that *Wales* was part of his Province.

^y That is by the Pope, his Legate, or the Bishop, *L.*

^z Tho' they were ordain'd, and even born in the Diocese where they dwelt. *L.* in this Page gives it for *Law*, and proves it by Authorities, that a Man well known, and of good Fame, who hath long been reputed to be in Orders, shall not be oblig'd to prove his Ordination by Letters, or any other Evidence; and our common Law at this Day says the same.

^a For in other Cases the Bishop's Licence was not necessary, nor is at this Day to qualify a Man to celebrate divine Offices but only to preach, or be a Curate, & *exceptio firmas in non exceptis.*

^b *L.* acknowledges, that exempt Houses of Monks and Religious were not bound by this Constitution.

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the Bishop, or of his Vicar General in the Bishop's absence.

2. Let Priests often exhort the People to have their Children confirm'd: For that Sacrament ought to be receiv'd after Baptism. If the Person to be confirm'd be ^e adult, he is to be admonish'd by the Priest of the Place, first to go to Confession, and then to be confirm'd: And let him come fasting to Confirmation in honour to that Sacrament. And let Parents be often admonish'd by the Priests to carry their baptiz'd Children to the Bishop for Confirmation; and not stay long for the coming of the Bishop, but carry them to him when he is ^d in the Neighbourhood as soon as may be after Baptism; and carry ^e Fillets sufficiently large along with them. And let the Children on the third day after Confirmation be carry'd to the Church, that their Foreheads may be wash'd in the ^f Baptistery by the Priest's Hand in honour to the Chrism; and at the same time let the Fillets be there burn'd. ^g Let no Child be held at Confirmation by its Father, or Mother, Stepfather, or Stepmother. And our will is, that this Prohibition be often publish'd in the Church by the Priests, that Parents, and others who hold Children at Confirmation, may know that a spiritual Relation is contracted at this Sacrament, as well as at Baptism. Let Parents take great care that they do not a second time offer

^e Adult, that is fourteen Years of Age. *L.*

^d Within seven Miles, says *L.*

^e To bind the Forehead, and dry up the Chrism, with which the Bishop anointed the Child.

^f Not in the Font, says *L.* nor with Baptismal Water, but in the place where the Font stands, and with Water provided for that purpose.

^g The reason of this was that by the Canon Law the spiritual Affinity contracted between the Sureties, and

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and the baptized, did not only obstruct Marriage not yet contracted, but dissolv'd Marriage already contracted and consummated: You have a remarkable Proof of this *Causa* 30. *Dist.* 1. *c.* 1. yet this was mollify'd by Pope Boniface the Eighth, as you may see *Sext. L.* 4. *Tit.* 3. *c.* 3. so that Marriage not yet contracted only was dissolv'd by such Consanguinity. Yet this it should seem was not come to the knowledge of the present Archbishop, tho' done twenty four Years before, *viz.* A.D. 1298. or else the Archbishop was willing to remove all Scruples, that superstitious Men might raise upon this account.

offer their Children to be confirm'd: Because the Children, if Males, are by the Repetition of the Sacrament made ^h irregular, and the Parents by such neglect are ⁱ by the Canons liable to severe Punishment.

^h That is incapable of Benefice, or Orders without Dispensation.

ⁱ *L.* owns himself ignorant of any such Canons: And indeed the Irregularity incurr'd by the Child baptized seems only to have been a harsh Construction of an unreasonable Canon, that one twice baptized, tho' ignorantly, should not be admitted to Orders. But certainly the present Archbishop was the most cruelly rigid and superstitious of any Man that ever sat in this Chair, and this Constitution contains as great Proofs of it as well can be imagin'd.

3. Let the sick Man's Oil be carry'd with great Reverence to the Sick, and let the Priest's anoint them with great Devotion, and with the celebrity of Prayers provided for this purpose. And let the Priests of the Lord often exhort the People, that is all that are fourteen Years old and upward to receive Extreme Unction, [^k and let them shew themselves ready to give it to all without distinction, when ther is occasion.] And let them be

^k This is not in *L.* tho' the last words seem necessary to complete the Sense.

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inform'd, that after the receiving of this Sacrament, they may, if they recover, return again to their conjugal Duty : [¹ And let the holy Oil, and Chrism be kept safely under Key; that no profane Hand may reach it for horrible Purposes.] And let them teach the People, that the Sacrament of Extreme Unction may be receiv'd again after one Year be past and gone; that is once in one Year, in grievous Sickness when ther is a fear of Death. This Sacrament is necessary as appears from the Words of St. *James*, Ch. v. *v.* 14, 15.

¹ *L.* has omitted this also. The *horrible Purposes* were no doubt, Sorcery, Witchcraft, &c.

4. Let Rectors of Churches and Priests be diligent in what concerns the honour of the Altars, especially when the Holy Body is thus reserv'd, and Mass is celebrating; let the Holy Eucharist be kept in a clean Pyx of Silver, or Ivory, or otherwise as befits the Sacrament. Let not the Host be reserv'd above seven days after Consecration; but be renew'd every Week : And let it be carry'd with Reverence by the Priest, or in Case of extreme Necessity by the Deacon, with a ^m Light and Lanthorn going before; unless the distance of place, or the shortness of time forbid this. And let the Ministers so behave themselves going and coming that the sick Man have the Office duly perform'd to him, and they who hear and see them be invited to pay due Reverence to the Sacrament; ⁿ and let Archdeacons provide, that the Linen Clothes, and other Ornaments of the Altar be decent, and that the Church have Books fit for reading and singing; and ^o two Suits of Priest's Vestments at least, and that due regard be

^m And a Cross as in the Margin of the *Oxford* Copy.

ⁿ Here *L.* begins his Text of this Constitution.

^o One for Lord's-days, the other for Week-days, *L.*
paid

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paid by all to divine Offices: And we charge that they P who tend at the Altar be cloath'd with
 9 Surplices.

P They that serve the Priest at Mass, or the Priests themselves when they do not celebrate, but come only to do something in relation to the Sacrament there serv'd, L.

9 L. did not remember that he ever read of this Garment in the whole Body of the Canon, or Civil Law, nor (as he adds) in the Holy Scripture. But *Durantius* the Elder mentions it, and he liv'd above 130 Years before L. he says, that they who tended at the Altar used it: And farther speaks of it as a laudable Custom, that in some places the Priests wore an Alb, or Surplice under his Amyt, which last was commonly reckoned the undermost Missal Garment. See *Dur. L.* 3. c. 1, &c. 2.

5. Let the Linen Clothes, Corporals, Palls and other Altar-clothes be whole and clean, and often wash'd by 1 Persons assign'd by the Canon for this purpose, out of regard to the Presence of our Saviour, and of the whole Court of Heaven, which is undoubtedly present at the Sacrament of the Altar while it is consecrating, and after it is consecrated. Let the words of the Canon be fully and exactly pronounc'd, and with the greatest devotion of Mind; with an especial regard to those [words] which concern the holy Sacrament. Yet let not the Priest thro' Affectation make the Office nauseous to the Hearers, and take away the Marrow and Fatness of their Devotion,

2 Deacons, or other Ministers, says L. The Canon Law permits the sacred Furniture to be handled by none but such as are in Orders. *De Const. dist.* 1. c. 41, 42.

1 L. by this understands the Intention of the Priest, which he affirms to be necessary to the Consecration.

2 I conceive that the words *Hoc est corpus, Hic est sanguis*, &c. here are meant, tho' this is incommodiously express'd.

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for dead Flies destroy the Sweetness of the Ointment. Farther, let no Parish Priest celebrate Mass till he hath finish'd Mattins, Prime and Unders: And let no Clerk be permitted to attend at the Office of the Altar without a Surplice: And let two Candles, or one at least be lighted at the time of High-Mass. [And we forbid any Priest, who has committed mortal Sin to go to the Altar to celebrate before he goes to Confession: Nor let him think as some do by mistake, that mortal Sins are blotted out by the " General Confession.]

" Which General Confession is publicly made by the Priest at the Introit to the Mass, at Prime, and Compline; but it avails only for venial Sins, says *L.* This Clause is not in the *Oxford Copy.*

6. Let Archdeacons, and their Ministers be very careful in observing what is above said concerning the Reverence to be paid to Sacraments, as also in what follows, by coercing Transgressors in proportion to their Crimes. We injoin Archdeacons, and their Officials in their Visitations of Churches [^x to cause the Vessels, Vestments, Books, and other things belonging to the said Offices to be written down and] have a special regard to the Fabrick of the Church, and especially of the Chancel; and that they fix a certain time for the supplying such defects as they find therein under some ^z Penalty, and let them make enquiry by themselves, and such as belong to them, whether ther be any thing to be corrected either as to things, or Persons in the Parish where they perform the Office of Visitation: And let such Excesses be corrected either at that time, or at the next Chapter.

7. Let

^x This is not in *L.*

^y *Viz.* of the Sacraments.

^z Here *L.* speaks of Churchwardens as bound to the Reparation of Churches: And this is, I suppose, the earliest

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liest proof of it. He intimates that the Penalty was for the most part pecuniary: But withal says that such Parishioners as refused to contribute might be personally excommunicated: These Churchwardens first were chosen to take care of Cows, Sheep, and other Bequests given for the repair of the Church, and finding Lights: It was long after this before they were oblig'd to present Offenders.

7. Let Matrimony be celebrated as other Sacraments with Reverence in the day time, and in the face of the Church without Laughter, Sport or Scoff. Let the Priests while the Marriage is contracting, interrogate the People ^a under pain of Excommunication by three publick Banns concerning the ^b Immunity of the Bridegroom and Bride on three *Lord's-days*, or Festivals ^c distant from each other. If the Priest neglect these Banns, let him not escape the ^d Punishment lately enacted in the General Council. And let Priests often forbid such as are dispos'd to marry to ^e plight their Troth any where but in some nota-

^a That is, I conceive, threatening those who knew a lawful Impediment, and conceal'd it, with Excommunication; but *under pain of Excommunication* is not in *Lindwood*.

^b That is their being free, or disengaged, as to all others; the *Oxford* Copy has it *de Legitimatione sponsi*, &c. and this is a more comprehensive word, implying not only an Immunity, but being of lawful Age, not too nearly related, &c.

^c *L.* says 'tis sufficient, that the Festival Days be distinct from each other, or three several Days (so that the Banns be not publish'd twice the same Day) as for Instance, says he, on *Monday*, *Tuesday*, and *Wednesday* in *Easter*, or *Whitsun-Week*, for *Wednesday* was then a Festival in both those Weeks.

^d Three Years Suspension from Office inflicted by the *Lateran* Council, 1216. *c.* 51.

^e The Contract, or Espousals in this Age differ'd from the Solemnization of Marriage.

ble

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ble place before [^f Priests or] publick Persons call'd together for this purpose under pain of Excommunication.

^f Priests are not mention'd by *L.* A Contract in *presenti* was absolutely obliging as it still is, if made before any two good Witnesses, and *L.* by publick Persons understands two such Witnesses in any publick Place. Yet the Contract, or Espousals were regularly to be first made, or however before Solemnization renewed before the Priest; and ther was an Office for this Purpose. Our Espousals and Solemnizations are now put into one Office.

8. Let the Priest in injoining Penance diligently attend the Circumstances of the Crime, the quality of the Person, the nature, time, place, and cause of the Sin, and the time of continuing in it, and the Devotion of the Penitent; and having diligently and distinctly consider'd all these Particulars let him injoin the Penance. And let the Priest chuse such a place in the Church for hearing Confessions, as is open to the view of all; and never take the Confession of any, especially of a Woman, in secret, unless in case of necessity, or on account of the Sicknes of the Penitent. Let not one Priest admit the Parishioner of another to Confession, without the Licence of his proper Priest, or Bishop. Let the Priest injoin such Penance to the Wife, as may not make her suspected of any grievous secret Crime by her Husband the same is to be observ'd in relation to the Husband. Let not the Priests injoin Penance for Theft, Robbery, Fraud, and especially for withholding, or subtracting Tithes, or of any Ecclesiastical Right without causing Restitution and Satisfaction to be made to the Persons injur'd: For the Sin is not forgiven till what hath been taken away is restor'd. When the Priest is under any Doubt in gross and atrocious Crimes, let him
consult

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consult the Bishop, or his substitute, or provident, discreet Men, by whose advice he may certainly know whom to bind, whom to loose, and in what manner. But lest the Penitent should fall into Despair, which God forbid, let him be in the mean time admonish'd to do all possible good, that God may direct his Repentance. Let the same be done as to him who confesseth his Sin, and yet will not abstain from it, in which case Absolution cannot be given: For we never read of Pardon conferr'd on any without Reformation. And let Priests beware, that they do not inquire of their Penitents concerning the Sins [of other Men] or the Names of the Persons, with whom they themselves sinn'd; but only the circumstances and quality of the Sin: Because it is written, *& I have declared unto Thee, O God, mine own Life,* and not another Mans: And Confession ought to be of what belongs to ourselves, not to others.

§ Ps. lv. (with us lvi.) *ψ*. 8. according to the vulgar Lat. Tis in our English, *Thou tellest my flittings, or wanderings,*

9. ^h Let no Priest who hath committed mortal Sin, *&c. as in the last Clause of the fifth Constitution.* And let no Priest in any case out of hatred, anger, or fear even of Death discover the Confession of any Man by Signs, Nods or Words, either in general, or particularly, and if he be convicted of this, let him be ⁱ degraded without any hopes of Reconciliation.

^h *L.* Glosses twice on this, viz. p. 236, & 334.

ⁱ This Crime was punish'd not only with Degradation, or Deposition by the old Canon Law, but with a disgraceful Pilgrimage, *Causa* 33. *Quaest.* 3. *Dist.* 6. c. 2. But the Council of *Lateran* 1216. turn'd the Pilgrimage into a Monastic Life, c. 21.

10. Whereas

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10. Whereas it often happens that Rectors of Churches, ^k Priests, and others in the Holy Orders, either do not at all go to Confession; (or else confess to those, who have no Authority to bind, or loose them) upon pretence that they are subject to no Man in the Court of Conscience, we ordain that one, or more idoneous Priests of competent Learning, and good Reputation be appointed ^l in every Deanery throughout every Archdeaconry to hear the Confessions of such, and to injoin them Penance; and our will is, that they be authoriz'd for this purpose by the Diocesan of the Place, or his Deputy. And we firmly forbid the Religious, Monks, Canons, Anchorites, or Hermites to admit the Subject of another to Penance.

^k L. supposes that they were such as liv'd in Noblemens Houses, which had Chapels belonging to them, where the Curate of the Parish had nothing to do, or in Places privileg'd to chuse their own Confessors.

^l Here I follow L. the Oxford Copy has *per Archidiaconos singularum Decanatum*.

There is in Sir H. S. p. 487. an Ordination, as 'tis call'd, of this Archbishop directed to his Sons the Official of the Court of Canterbury, and the Dean of the Arches, intimating that he had formerly visited his Court of Canterbury, but not yet found time to reform the Corruptions then detested: He observes, that when a Rector was sued in that Court concerning the Right of Possession of his Benefice, or the like, the Fruits of the Benefice were wholly sequester'd and converted by the Presidents, that is I suppose, the Judges, to their own Use and the Defendant, tho' in Possession by Law, disabled from maintaining his Cause, and Self, and often reduc'd to Beggary: Therefore he ordains, that for the future Sequestrations be used in no Cases, but what are expressly

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pressly allow'd by Law, or evidently allowable, and the Fruits kept not for the Use of the Presidents, but of him who carries the Cause, or appears to have a right to them; and that a sufficient Portion be assign'd to the Defendent for the defence of his Cause and his Subsistence: He lets them know that he intends a thorough Reformation.

Here my Reader will observe, that Archbishops by their own personal Authority regulated all Matters relating to their Courts. It is well known, that the last Archbishop Robert Winchelsey drew a Body of Statutes containing fourteen Pages in Folio, for the better management of his Court of Canterbury, which is now united to the Court of the Arches. They are extant in Sir H. S. p. 413, &c.

A. D. MCCCXXVIII.

Archbishop Mepham's Constitutions.

TH E Constitutions of the venerable Father *Lat.*
Simon Mepham Archbishop of Canterbury, in a Provincial Synod celebrated at St. Paul's, London, in the Month of February, the Friday after the Conversion of St. Paul, A. D. 1328. in the third Year of the Reign of King Edward III. John the twenty first or twenty second, and Nicolas the fifth being Pontifs at once, from whence proceeded the twenty sixth Schism.

It concerns Prelates of the Church to have a zeal for the Lord their God, (who are to be damn'd not only with a personal Perdition, but the Lord will require at their Hands the Blood of their Subjects) especially against those who are honour'd with the Name of Christians, and yet contradic

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dict their Profession by their damn'd Works; so as to root out by the Sword of the Spirit, and the Hoe of Ecclesiastical Discipline all hurtful Vices, and graft Virtue, and reform Manners, so that evil Appetites may not exceed the Bounds of Honesty, but that the Christian Profession may be advanc'd with a salutary Increase. To this end we *Simon* by Divine Permission Archbishop of *Canterbury*, and P. of A. E. in the Name of the Holy Undivided Trinity, Father, Son, and Holy Ghost, have by the Authority of this present Council, and with the consent of our Suffragan Brethren thought it necessary to confirm the Ecclesiastical State in our Province of *Canterbury*, by adding Punishments for the preservation of Statutes formerly publish'd by Councils, and by ordaining some new ones, by which the [evil] living of Offenders may be restrain'd, and their Salvation promoted.

1. Desiring to provide for the Salvation of Souls, we take rise from the Fountains of him that is the Author of it: Therefore we enact, and ordain, that that holy Day of Preparation, in which our Saviour, after being scourged deposited his precious Soul upon the Cross for the Salvation of Men, be celebrated as a ^m Festival according to the Rites of the Church, in reading with Silence, in Prayer with Fasting, in Compunction with Tears; ⁿ and we forbid that any attend their servile Works on that Day, or be employ'd in any Bu-

^m Lat. *Festivè, id est, ad instar diei Festi*. This is strange Solecism to us, but *L.* expresses no wonder at it.

ⁿ Here is no mention of a Mass to be celebrated: And I think, this is the only Day in the Year, in which the Church of *Rome* allows of no Mass. They administer the Communion upon this Day, but *ex præsanctificationis*, in Hosts consecrated the Day before.

finis

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finest inconsistent with Piety. ° Yet we do not hereby lay any Law upon the Poor; nor forbid the Rich to yield their customary Assistance to the Poor in tilling their Lands for Charity's sake.

° *L.* seems to countenance the Opinion that Husbandry, and servile Works were forbidden only on *Lord's-days*, and our Saviour's Festivals, and those of the Blessed Virgin, and of the Apostles *Peter* and *Paul*; but by this Constitution servile Work was not absolutely forbid on *Good Friday*, which yet was to be kept as a Festival of *Christ*.

2. P Farther, that the Memory of the Blessed Virgin *Mary*, the Mother of our Lord may be oftner, and more solemnly celebrated, in proportion to the greater Favour, which she among all the Saints hath found with God, who ordain'd her Conception to be the predestinated temporal Origin of his only begotten Son, and the Salvation of all Men; that by this means the remote Dawnings of our Salvation, which raise spiritual Joys in pious Minds, might increase the Devotion and Salvation of all; following the Steps of our venerable Predecessor ¶ *Anselm*, who after other more ancient Solemnities of hers, thought fit to add that of her Conception; we ordain and firmly command, that the Feast of the Conception aforesaid be solemnly celebrated for the future in all the Churches of our Province of *Canterbury*.

P The Preface to the foregoing fits this better than that.

¶ That an Archbishop of *Canterbury* should by his own Authority institute a new Feast is not credible; nor is ther, I conceive, any Evidence that a Provincial Synod ever did this. It is true, every Bishop before the Reformation had power of ordering what Holy-days he pleased over and above those order'd by the Provincial Councils to be kept with Solemnity; but they were only such Holy-days as were before authorized by the

See

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See of Rome. *Anselm* might first introduce the Feast of the Conception here in *England*, I mean as to the solemn Observation of it. But it is evident, this was known to be a Holy-day several hundred Years before. The Council of *Toledo*, *A. D.* 694. c. 1. complains of the uncertainty of the Day, and fixes it to the 18th of *December* ('tis now on the 8th.) Both Protestants and Papists say that the Feast of the Conception was instituted by *Sixtus* the fourth, *A. D.* 1476, or 7. yet his Bull (*Extrav. com. L. 3. Tit. 12.*) says no such thing, but only enjoins the Service lately composed for that Day by *Leonard de Nogarolis* to be observ'd, and grants Indulgences to them that attend it. So the Feast of the Annunciation is commonly said to have been instituted by *Boniface* the ninth about the end of the fourteenth Century; yet 'tis expressly mention'd in the said Chapter of the same Council of *Toledo*, which was seven hundred Years before. And was certainly observ'd in *England* before ever *Boniface* the ninth was Pope. Yet it may be allow'd, that *Sixtus* the first instituted the Feast of the *Immaculate Conception*: For the Ancients did not give it that Epithet; tho' *Anselm* (as *L.* observes) seems to favour the Notion of the Blessed Virgin's being conceiv'd without original Sin.

3. We also declare by the Authority of this Council, that the Violators of Ecclesiastical Liberty and Immunity incurr the Sentence of the greater Excommunication *ipso facto* already pass'd in ² the Council of *Oxford*, who take away, consume, or lay Hands upon any thing; or cause to be taken away, consumed, or Hands to be laid upon any thing belonging to the Houses, Manors, Granges, or other Places belonging to Archbishops, Bishops, or other Ecclesiastical Persons, without the will or permission of the Owners, or their Stewards; or who take upon themselves to justify the taking away, consuming, or laying Hands on such things, done in their Names, or

² See the first Constitution of the Council held by *Stephen Langton*, 1222.

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by those of their Family. And lest such Violators of Ecclesiastical Immunity should, as they have hitherto used to do, evade the Proceedings against them by means of the Difficulty of serving Summons upon them; we decree with the consent and advice of our Brethren, and of the whole Council, that such a Violator be personally cited, if he can personally be found, and safe access can be had to him. But if he cannot be found, or access to him be not safe, then that he be cited ^f at his House, if he have one, to which there is safe access; but if he cannot safely be cited at his House, ^t then that he be cited in the Parochial Church to which his House belongs; but if he have not, or be not certainly known to have any House, then in the Cathedral Church of that Place where the violation of Immunity was committed: And we decree the Citation also to be made in the Parish Church of the Place, if it can be done with Safety. And our will is, that a Citation thus publickly made at his House, or in the Church do as much bind the Party cited (not only in the Cases beforemention'd, but in all Cases in the Constitution of Lord *Ottobon*, which begins with these Words, ^u *The Immunity of the Church*) as if he had been personally apprehended; and that Proceedings may be against him by Virtue of such a Citation as effectually in all respects, as if he had been cited in Person. And we decree that such and all other Violators of Ecclesi-

^f Lat. *in domicilio*. But *L.* justly observes, that it can signify no more, than at or near the place of his Habitation; for this is said upon Supposition, that it is not safe to enter into his House, or that his Person is not to be found.

^t Here Sir *H. S's* Copy is defective, and the *Oxford* faulty; therefore I follow *L.*

^u See the 12th Constitution of *Ottobon*, 1268.

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allical Liberty may be conven'd in the place where the Fact was committed, either *ex officio*, and at the instance of a Party, altho' they are not [personally] found: And our will is, that when it is doubtful whether the said Violators can be found, or safe access can be had to them, or not, it be determin'd by the Certificate of him to whom the Mandate of Citation is directed; and that in the Cases aforesaid, and all others the injur'd Parties may the more easily obtain Justice, we with the Approbation of this Provincial Council, strictly * charge, that all ordinary Judges of the Province of *Canterbury* do without making any difficulty give their mutual assistance to each other in making Citations, and Executions, and in executing all lawful Mandates.

* *L.* will scarce allow that *precipimus* here carries any commanding Power with it, except when the Primate, or some Superior command an Inferior: And it can scarce be conceiv'd, that one Bishop could command any one in his Diocese to appear before the Bishop of another Diocese.

N. B. That all this care and Provision is made in a Case where the Party was *ipso facto* excommunicate, and therefore was cited only to hear the Excommunication pronounced against him with Solemnity.

4. And let them be restrain'd by Sentence of Excommunication, who contrary to the custom of *England* hitherto allow'd, do obstruct the Testaments, or last Wills of 7 Villains appertinent to Lands, or of any other of a servile Condition.

5. And

7 Ther were two sorts of Villains; the first seem to have been absolute Slaves; the others were prodigal Servants who were bought and sold, or pass'd by Inheritance, not singly and personally, but as Appendages to the Houses and Lands which they occupy'd, and for which they were bound to do certain Services; and were subject to all sorts of Corrections from their Landlords,

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lords, so they did not maim them; and they could not change their Conditions without the Will of their Lords: And these Lords claim'd the disposal of their Goods when they died, against this last this Constitution was made.

5. And because Ordinaries of Places do aggrieve such Executors by Difficulties of their own making in order to extort Money from them on account of the ^z Insinuation of their Wills, or committing the Administration of their Goods, we ordain, that nothing at all be demanded for the Insinuation of the Testament of a poor Man, the Inventory of whose Goods does not exceed ^a one hundred ^b Shillings Sterling.

^z That is the opening and publishing them before the Ordinary; he does not forbid taking Money for registering, &c.

^a *L.* would have it, that this should be understood according to the Imperial *Solidus*, then it makes 23 $\frac{1}{2}$.

^b Here *L.* affirms, that the old *English Penny* had a Bird call'd a Sterling impress in one of its Quarters. This hath been call'd a *childish Conceit*; but *L.* might have seen such Pence, tho' the Calumniator never did. *L.* farther says, that twenty six Pence made an Ounce in Archbishop *Mepham's* time, but when *L.* wrote thirty two; yet he will not allow that the hundred Shillings are to be computed according to this Variation. Hence nothing less than an hundred Shillings are allow'd to be *Bona Notabilia*. See *L.* p. 174. 175.

6. A certain Statute is said to have been put forth in the ^c Council of *Oxford*, in which among other things it is forbid frivolously to appeal from any judicial Grievance before definitive

^c We have in this Volume the Constitutions of two Councils holden at *Oxford*, the first under *Stephen Langton*, 1222, the other under *Robert Winchelsey* 1322; yet I find no such Constitution in either of these Councils; nor does *L.* mention any such Statute in his Gloss.

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Sentence, and that Advocates, and Proctors should be laid under an Oath to observe this Statute, and be ^d otherwise punish'd according to the Statute it self, if they transgress it; now we do wholly lay aside this Statute, and whatever has been done in Consequence of it, as being made for depriving the oppress'd of the remedy of Appeal, tho' colour'd over with specious Pretences: And we ^e absolve all those from their Oath, who are sworn to the Observation of it.

^d Perhaps, says *L.* by a Punishment assign'd in the Statute: This, I think, shews that he knew not the Words of the Statute.

^e That is we declare them absolv'd, says *L.* for he supposes the Oath unlawful, and therefore not binding.

7. Because some Sons of Malediction endeavour to restrain the Devotions of the People at Solemnizations of Marriage, Purifications of Women, Offices for the Dead, and upon other Occasions (when God in the Persons of his Ministers uses to be honour'd with the Oblations of his People) to a Penny, or a small pittance of an Offering, and often apply the residue of the Oblations to the use of themselves, or others; and some not considering, that the Almighty to whom belongs the Earth and its Fulness, hath commanded Tithes to be paid as a Sign of his universal Dominion, and hath assign'd them to the Clergy for his own Service, do sometimes maliciously hinder, or cause to be hinder'd the Ecclesiastical Persons to whom they belong, or their Servants in their ingress, and egress to and from their Farms from which the Tithes arise, in order to their ^f collecting, keeping

^f *L.* observes, that in some places by Custom the tenth Sheaf of the Corn was to be taken; but shews, that by the Canon Law the Owner was bound not only
to

Mepham's *Const.* MCCCXXVIII.

to gather the Tithes, and lay them in a heap, but to carry them to the Parson's Barn. *Caus.* 16. *Quest.* 1. c. 65, 66.

ing, and carrying away the said Tithes: And others carry away and consume, or cause to be carry'd away and consum'd, or damage to be done to such Tithes, unless Gloves, or Shoes be first given, or promis'd them: We therefore desiring to put a stop to such damnable Devices of perverse Men, ordaining nothing new, but inforcing the Statutes of 8 ancient Canons do by authority of this Council declare every such Instigator, Hindrer, and others aforesaid, by whose wicked Contrivances damage is done to the Churches, or to the Rectors, or Vicars of them, or any accustomed Honour, or Profit is withdrawn from them, and all such as offend in any of the Premises for the future to be ^h involv'd in the Sentence of the greater Excommunication, and we reserve the Absolution of them to the Diocesan of the Place, not to be given till by their Counter-endeavours the Devotion of the People be effectually restor'd to the Churches, and full Satisfaction made to the Ecclesiastical Persons injur'd by these Excesses.

8. Because

^g Laymen were forbid to take Offerings, *Caus.* 10. *Quest.* 1. 3. *ult. cap.*

^h *L.* inclines that this is a Sentence *lata*, not *serenda*; but then he proves it from the Canons against Violation of Ecclesiastical Liberties, and attributes much to the Custom of the Place.

A Canonist has put a Note at the foot of this Constitution in the *Oxford* Copy, by which he proves by the Civil Law, that at the Rector's Request the Farmer may be forbid to carry away his Corn, unless in the presence of the Rector or his Assign; and he adds this reason for it, that the Rector by having a right in the Fruits, has a right in the Soil; for the Fruits, says he,

MCCCXXVIII. Mepham's *Conf.*

are a part of the Soil. Our common Lawyers deny this.

8. Because Inconveniencies have happen'd, and do daily happen from Contracts of Matrimony made without preceding Publication of Banns; we streightly charge all and singular our Suffragans, that they cause the Decretal, ⁱ *Whereas the Prohibition*, &c. (by which it is forbid, that any contract of Matrimony without ^k Banns first publish'd in every Parish, and Diocese to which they belong on several solemn Days when the greatest number of People is present) to be explain'd in the vulgar Tongue, and firmly to be observ'd by inflicting the Penalty of ^l Suspension from Office for three Years on all Priests, whether they belong to those Parishes, or not, who presume to be present at Marriages contracted before solemn Publication of Banns, and due Punishment on those who do so contract Marriage, altho' ther be no Impediment. And let every Priest whether Regular, or Secular, who dares celebrate, or be present at the Solemnization of Marriage any where save in the m Parish Church without the special Licence

ⁱ That is the 51st Chapter of the *Lateran* Council 1216, inserted into the *Decretal*, L. 4. Tit. 3. c. 3.

^k L's Text is *Bannis non præmissis in singulis Ecclesiis Parochialibus sue Dioceseos*, and so the *Oxford* Copy. This intimates that Banns should be publish'd in every Church of the Diocese, but this is more than the Decretal requires, therefore I follow Sir H. S. who has it in *singulis Ecclesiis Parochialibus, five Diocesibus*. And I am apt to think that L's original Text was to the same purpose: For in his Gloss he tells us, that Banns ought to be publish'd where the Parents or Kindred live, as well as in the Places where the Parties contracting have their abode: This would be an excellent Law.

^l This implies Suspension from Benefice, says L.

^m *Where the Bride, or Bridegroom, or their Friends live* must

Supposed Constitutions of, &c.

must here be supply'd: The whole Constitution is carefully express'd.

L. has the times pretendedly forbidden in his Gloss both on this and the foregoing Canon, of which *Cler. Vade Mecum*, Part 1. p. 200.

Licence of the Diocesan be suspended from his Office for for a whole Year.

9. We ordain, that no ⁿ Inquisition for the future to be made concerning the defects of Houses, or ^o other things belonging to Ecclesiastical Benefices be of any availment to the prejudice of another, unless made by credible Persons sworn in form of Law; the Party concern'd being first cited to this Purpose. Let the Diocesan cause the entire Sum tax'd for the Reparation of the Houses, and other things found to belong to Ecclesiastical Benefices wherher by Inquisition, or Composition, to be converted to the Reparation of the said Defects within a competent time to be fix'd by his Discretion.

ⁿ *L.* says the Ordinary might do this *ex officio*, but if done at the instance of a Party, then the Inquisition was to be more exact.

^o *Viz.* Books, Vestments, &c. especially the Chancel, if the Benefice was a Rectory, or a Vicarage bound to repair the Chancel.

A. D. MCCCXXX.

Supposed Constitutions of Archbishop Mepham.

SIR H. S. p. 498. has ten Constitutions attributed to Simon Mepham, of which a Man may justly doubt whether he was any wise concern'd with them: they bear no date, and therefore the

MCCCXXX. *Supposed Constit. of*

Year which I have prefix'd is only to distinguish these from the former: Three of them I have translated; because I find them no where else: The six foremost are the Constitutions of Archbishop Reynolds.

1. *The first is the fifth Constitution of Reynolds.*
2. *The second is the eighth of Reynolds.*
3. *The third is the ninth and tenth of Reynolds.*
4. *The fourth is the third of Reynolds.*
5. *The fifth is the seventh of Reynolds.*
6. *The sixth is the first of Reynolds.*

7. Let no P Layman pawn or sell the sacred Vessels, or Vestments either to *Jews* or *Cbristians*; nor let out, infeof, or otherwise alienate the Possessions of the Church; unless urgent necessity and manifest utility require it, and the consent of the Diocesan Bishop be therunto given. If any act contrary to this, let him revoke what he has done at his own Cost. Let him who thus accepts and detains any Ecclesiastical Benefices be smitten with Sentence of Excommunication, and not be absolv'd till he makes Restitution.

P The Laymen affected by this Canon were probably the Patrons of Monasteries, or Religious Houses, and perhaps of Parish Churches, or such Noblemen as had the Guardianship of the Temporalities of any Bishoprick, or Abby granted them by the King: This was the reason why no Sentence is here pass'd, but barely that of Revocation. Archbishops were now grown more modest than in the Reign of *Henry* the Third.

8. Many presume to build Houses on a Lay-fee not only for their Sons and Nephews, but even for their Concubines, and lay out their Ecclesiastical Revenues upon them; and so treasure up unto themselves the Wrath of God, and eternal Damnation by hoarding up the Goods of the Church for their Kindred. We strictly forbid
this

Archbp. Mepham. MCCCXXX.

this to be done for the future; and ordain, that he or they who do it without Licence of the Diocesan, be suspended for a Year at least from receiving the Fruits of their Benefice; unless they make Satisfaction upon the Admonition of the Bishop, or Archdeacon. And let no Clerk farm out an Ecclesiastical Benefice to a Layman, nor sell his Tithes before they are separated. If any Clerk in an allow'd Case will commit his Benefice to another, we ordain, that it be committed to such an one who is able and willing to uphold the Buildings belonging to the Church, and to bear other Episcopal and Archidiaconal [¶] Burdens. And let him who accepts of another Man's Benefice be presented to the Archdeacon and [†] Chapter of the Place, and be fully instituted as general Procurator to that Benefice for the time there agreed between them.

[¶] Procurations, Pentecostals, and perhaps Pensions.

[†] The Clergy of the Archdeaconry quarterly assembled were the Archdeacon's Chapter.

9. Part of the thirty first of *Edmund*, beginning at *farther we strictly forbid*, [†] &c.

[†] This seems to intimate, that ther was but one single Bishop concern'd in this Constitution, and that therefore it was made in a Diocesan Synod: And this will perhaps incline my Reader to believe, that it belongs to *Edmund Abbendon's* Set. And indeed *L.* adds to the thirty first of his Constitutions, p. 214; but then to make it look like a Provincial, instead of *nostra Licentiâ*, he has *Diocesani Licentiâ*.

10. We charge, that three or four times in every Year Sorcerers, and such as have sworn falsely on holy [Books, or Relicks] Incendiaries, Usurers, atrocious Thieves, Robbers, Falsaries, such as maliciously oppose the Execution of reasonable Testaments and Detainers of Tithes, be solemnly excommunicated in general, and not absolv'd,

MCCCXXXII. *Supposed Const. &c.*

solv'd, nor injoin'd Penance by any one inferior to a Bishop, or his Vicar General, except at the Point of Death, and then let them be injoin'd to go to the Bishop to receive Penance from him, or by his Authority, if they recover.

A. D. MCCCXXXII.

Supposed Constitutions of Archbishop Mepham.

THER are three more and very long Constitutions attributed to this Archbishop in Sir H. S. p. 500, &c. But,

1. The first is clearly the last of S. Islip. This is dated from Mayhfield in Suffex, sixteenth Kalends of August, that of Archbishop Islip the seventeenth of the same Kalends, this A. D. 1332. that 1362. both of them run in the thirteenth year of our Consecration, whereas Mepham sat not half so long. But their having both the same Name (Simon) caused this Confusion.

2. The second is the fifth of Archbishop Winchelsey.

3. The third is the sixth of Archbishop Winchelsey. I have been willing to suppose that these Constitutions were several times re-inforced, and so bear the names of the several Archbishops, who gave them a new Sanction; but the Fraud, or the Blunder is so visible in the first of these three, that I can say nothing with Probability.

A. D.

A. D. MCCCXXXVI.

Settlement of Procurations.

I Judge it seasonable here to intimate to my Reader, that about the Year 1336. Pope *Benedict* the twelfth, publish'd a Bull for the settling of Procurations, or a Composition in Money for them. Sir *H. S.* hath given us a very defective corrupted Copy of it; that in *Extrav. Com. L. 3. Tit. 10.* is more perfect and correct. I have to avoid Prolixity given my Reader a Table of such Compositions only as were to be paid to the several Visitors, in the several Countries subject at that time to the Pope, for any Religious House that had fewer than twelve Persons belonging to it, or for any Parochial Church. By which the Reader will see how disproportionable these Compositions were. The Sums taxed were the utmost that the Visitors were to demand: The Visitors are charged to accept less from poor Churches, and not to exceed any stated Composition already fix'd by ancient Custom. And it was farther provided by this Bull, that the charitable Subsidies then often demanded by Prelates of their Clergy should not exceed that Composition for Procuration, which was to be paid by the Incumbent when the Prelate visited by Deputies: Therefore I have set before my Reader the Sums to be paid to such Deputies here in *England*.

The Turons were twelve to the Floren, as the Pope tells us by his Bull, and he adds, that he meant the golden Floren coin'd in *Florence*. I am not sure what this was, but *Spelman* from *Caius* informs us, that twelve Turons made four Shillings and four Pence; and this seems to have been the true value of the *Englisch* Floren, till *Edward* the

MCCCXXXVI. *Sett. of Procurat.*

the Third now reigning coin'd new ones of fix Shillings value, about the Year 1344. But at this rate the Archdeacons full Procuration in *England* would have been 17 s. 4 d. Whereas *L.* lays a full Procuration at 7 s. 6 d. in his Gloss on Constitution the sixth of *Stratford*, 1242. The greatest *French* Floren was not above 2 Shillings *English*; after this Computation the Archdeacons Procuration would be 8 s. 4 d. and supposing the *Italian* to have been somewhat less than the *French*, it might make the *English* Sum of 7 s. 6 d. which was the Archdeacons full Procuration in *L's* time. Archdeacons have often more than this. In such Cases we must suppose that the personal Visitation was continu'd till a Night and Days Entertainment for seven Horses and as many Men, came to the Sum now paid by way of Composition for the Procuration. Where less than 7 s. 6 d. is paid, which is the more common Case, it must be taken as the Quota laid upon that Church, with two or three others hard by, which might be visited on the same Day.

N. B. I follow the Copy of the Extravagants,

	<i>France.</i>	<i>Almain.</i>	<i>Spain.</i>	<i>Italy.</i>
	<i>Navar.</i>	<i>England.</i>		
	<i>Savoy, &c.</i>	<i>Hungary.</i>		
		<i>Bobemia.</i>		
		<i>Poland.</i>		
		<i>Denmark.</i>		
		<i>Scotland.</i>		
		<i>Sweden.</i>		
	Tur.	Tur.	Tur.	Tur.
Archbishops	200	220	100	40
Their Deputies		100		
Bishops	140	150	60	30
Their Deputies		80		
Archdeacons	35	50	25	10
Their Deputies		30		
Arch-Priests, or } Deans Rural }	8	10	5	0
				The

Stratford's *Extrav.* MCCCXLII.

The Procurations paid to our Bishops, and even Archbishops fall very short of the Sums here mention'd: The reason of this is probably that none of them have for many Ages past made Parochial Visitations either in Person, or by Proxy, and so these Prelates, and their Clergy fell into a voluntary, and very moderate Composition. The Archdeacons down to the Reformation kept up their Parochial Visitations, and were therefore entitled to such Compositions as are here mention'd: But then they commonly visited more than one Church every Day, and could by the Canons have but one entire Procuration for each Day.

A. D. MCCCXLII.

Archbishop Stratford's Extravagants.

Sir H. S. vol. 2. p. 572.

THESE following are the Constitutions Provincial (by some call'd the ¹ Extravagants) of *John Stratford* Archbishop of *Canterbury*, made in a Provincial Council at *London*, on the 10th Day of *October* 1342. Lat.

¹ There are two Books in the *Corp. Jur. Can.* under this Title. *L.* cites the Decretals under the same Title. Imperial Laws not extant in the publick Books were also so called.

1. ^u Not only the old Testament, and the Canonical Sanctions, but the Traditions of Secular

^u The Reader may observe that the Preface is obscure and corrupted in all three Copies, viz. The *Oxford* and the two Copies of Sir *H. S.* p. 572, and p. 491. I follow sometimes one, sometimes another.

Princes

MCCCXLII. Stratford's *Entrée*.

Princes have with a considerate Judiciousness discover'd how unbecoming a thing it is, and how contrary to that Reverence which we owe to God, to celebrate such great Mysteries in private Oratories, or Chapels not endow'd, nor assign'd to the Celebration of Divine Service, or in Houses not consecrated. But Priests, both Regular and Secular, in Contempt of all this, celebrating Divine Offices there, cause great danger to Souls by drawing Parishioners from their Parish Churches, and so depriving them of those wholesome Instructions which they used there to receive, who therupon rashly do things that are forbidden, and communicate with some whom they ought not; and contrary to that Doctrine which forbids one Man to offer Hardships to another: And from hence many Evils arise, and the accustom'd Honour and Profit of Parish Churches is lessen'd. Now we with the consent and advice of our Brethren decree, that whosoever celebrates Masses in Oratories, Chapels, Houses, or Places not dedicated, without Licence of the * Diocesan first obtain'd contrary to the Canons, do for the future incurr Suspension from the Celebration of Divine Service *ipso facto* for the space of a Month. And we decree that Licence granted, or hereafter to be granted by the Bishops of our Province for celebrating Masses in unconsecrated Places, to other than to great and noble Men dwelling in Places * greatly distant from their Parish Churches, or † notoriously sickly and infirm, be null and of no

* Yet L. observes, that the Archbishops granted such Licences throughout their Province by Law, or Custom.

† L. extends this to Knights that have any Office, or Dignity.

* One Mile or more, L.

* Such may have Licence, though they are not Noblemen, L.

force,

Stratford's *Extrav.* MCCCXLII.

force. [^b By this we intend not to derogate from Prelates, Rectors, and Canons of Cathedral Churches, or Religious, so as that they may not celebrate Masses, or lawfully cause them to be celebrated as they use to do in their Oratories built ^c of old.] Farther we intend not this Punishment against such Priests as celebrate Masses in the Oratories, or Chapels erected, or to be erected for the Kings, or Queens of *England*, or ^d their Children.

^b Instead of this Clause, the Parallel Constitution publish'd by Sir *H. S.* p. 491. under the name of *Walter Reynolds*, has the following, " unless such Places in " which the Celebration is made, without Licence of " the Diocesan, or the Owner of them, be specially " privileg'd by the Apostolical See, in which Case they " who celebrate there are bound to exhibit the Instru- " ments of Privilege to the Diocesan of the Place with- " in two Months after the Publication of this Statute; " otherwise to incur the Suspension before inflicted " *ipso facto*.

^c *L.* supposes that the Custom here spoken of must have taken its rise from the Bishop's Licence. And without such Licence from the Archbishop of *York*, says he, the Archdeacons of *Richmond* could not at first have given authoritative Institution.

^d This extends only to Grandchildren: The next Generation, and all after that are *Posteri*, *L.*

2. Ther is a new covetous Invention of exacting immense Sums from Clerks for Letters of Institution, when they are admitted to Benefices, and when ordain'd, for Letters of Orders, for Pains in Writing, and for Seals, against the ^c Canon, which says, that as it becomes not a Bishop to sell Imposition of Hands, so neither does it be-

^c The Canon here cited by *L.* is *Caus. 1. Quest. 2. c. 4.* it contains a saying of *Gregory* the first, as is pretended, that no one must exact Money for coming into the Church, or for the Pall: It were well if the Popes had observ'd this Rule.

come

MCCCXLII. Stratford's *Extrav.*

come the Minister to sell his Pen. And the Clerks of Archdeacons, of their Officials, and others refuse to deliver Certificates of ^f Inquests upon the vacancy of Benefices to the presented, unless they first pay an excessive Sum for the writing of it: We therefore desiring to abolish this Abuse think fit with the deliberate Advice of this Council to ordain, that the said Clerks do not in any wise by themselves, or by others receive above twelve Pence for writing Letters of Inquest, Institution, or Collation, or of Commissions to induct, or Certificates of Induction into Benefices; nor for Letters upon taking any sacred Order above six Pence. In other Particulars let Ordinaries be bound to assign Fees to their Ministers, with which they ought in reason to be contented. But we will that nothing at all be paid for sealing such Letters, or to the ^g Marshals for letting them in, Janitors, Door-keepers, ^h Barbers of the Bishops, by Clerks either in the lesser or greater Orders; lest under any Pretence whatsoever they make a Gain of sealing Letters, and of letting Men in: And lest the rash Violation of these Provisions should pass unpunish'd, we charge that if any thing contrary to the Premises be receiv'd, the doubles therof be restor'd within a Month. Let the ⁱ Clerks who delay to restore it, if they are benefic'd, be suspended from Office and Benefice; but let unbenefic'd Clerks and Laymen be forbid entrance into the Church, till

^f See 14 Const. of *Peckham* 1281.

^g The Keepers of the Bishops Palaces.

^h The Barbers were to see that the Cut of the Clerk's Hair was precisely Canonical, before he went into the Bishop's Presence; some Kings have had Barbers licenc'd by them to look to the Cut of the Hair of such Clerks as attended them in their Palaces.

ⁱ By this it appears that Benefic'd Clerks were sometimes Secretaries, or Scribes to Bishops.

they

Stratford's *Extrav.* MCCCXLII.

they have made competent Satisfaction for the Doubles to those who paid [the unlawful Fees.]

3. Because Archdeacons, their Officials, and other Ecclesiastical Ministers of our Province make delays in giving Induction, and Certificates of Induction, according to the Mandates of the Superior, to them who are promoted to Benefices, after they have instituted and collated to them, unless they are satisfy'd in their Demands of an immoderate Sum of Mony; we ordain, with Approbation of the ^k sacred Council, that such as are bound to induct Clerks that have been admitted to Ecclesiastical Benefices, be content with moderate Charges on that account; that is, if the Archdeacon induct, with forty Pence, if his Official (for his own Expence and those that belong to him) with two Shillings; leaving it to the option of him who is to be inducted, whether he will pay this Procuracion to the Inductor, and those that belong to him in Money, or in other Necessaries. ¹ If more be receiv'd by the Inductors on such Occasions, or on account of performing the Inductions in their own Persons; or if they do unduly delay to make, and deliver Certificates by artificial Pretences; we will that they who are blameable in this respect do *ipso facto* incur Suspension

^k L. declares, he had met with nothing of this Council in the Chronicles, or Registers: Yet he says, it was call'd *Stratford's* Constitution. It is strange that he who wrote not above eighty years after the common date of these Constitutions should want Light in this matter. I have posted them here rather in Submission to some great Men, than out of any Evidence of the certainty of the time. The *Oxford* Copy places the other Constitutions of *Stratford* before these Extravagants.

¹ In the other Copy of Sir H. S. p. 490. ther is the following Clause added, "yet in such places where less
" uses to be paid for Induction, we intend not by this

B b

" Constitution

MCCCXLII. Stratford's *Extrav.*

" Constitution to add a greater load. " It should seem the practice which now prevails for the Archdeacon to give a Mandate for the instituted Clerk to be inducted by one that was not Official had it's beginning in *L*'s time. For he proposes the Question whether the Archdeacon in this Case shall have any thing, and answers peremptorily in the Negative; but that the Inductor shall have what is sufficient for one of his Degree.

sion from Office and entrance into the Church, till they have made Restitution of what they had receiv'd, to them who paid it, and Satisfaction to the Party injur'd thro' this Fault.

4. Whereas Ecclesiastical Men are entrusted with dispensing of Tithes, and other things belonging to the Church, that the Poor by their prudent management may not be defrauded; yet the Religious of our Province having Churches appropriate do so apply the Fruits of them to their own use, as to give nothing in Charity to the poor Parishioners being regenerate Sons of the Churches, to whom they are bound to do this more than to Strangers: By which means such as owe Tithes and Ecclesiastical Dues become not only indevout, but Invaders, Destroyers, and Disturbers, to the danger of their own Souls, and theirs, and to the Scandal of many: Therefore with the Approbation of this sacred Council we ordain, that the said Religious having Ecclesiastical Benefices appropriate be compell'd by the Bishops every year to distribute to the poor Parishioners a ^m certain Portion of their Benefices in Alms to be moderated at the discretion of the Bishops in proportion to the value of such Benefices, under pain of ⁿ Sequestration of the Fruits, and

^m Not a half, but a fourth, or sixth, but rather a fifth part of the Benefice, as *L.* here, and p. 153.

ⁿ Here is a clear proof that Bishops had power of sequestering such appropriate Benefices.

Profits

Stratford's *Extrav.* MCCCXLII.

Profits therof, till they yield a reasonable Obedience in the Premiffes.

4. ° Tho' Parifhioners by laudable Custom long prevailing in our Province are bound at their own Coft to make, and as often as ther is occafion to repair the Bodies and Roofs of their own Parifh Churches, both within and without; as alfo the Steeples therof, the Altars, Images, and Glafs Windows in them, and the Fences of the Cemetaries; yet the Religious, and others having Eftates, Farms, and Rents within the Bounds of fuch Churches of our Province of *Canterbury*, efppecially if they dwell not within the Parifh belonging to fuch Churches, do unjuftly refuse to contribute toward the Fabrick of the faid Churches, or the Enclofures of the Cemetaries, and other Burdens belonging to the Parifhioners; p altho' for the moft part fuch Burdens are taxed in proportion to the Farms and Eftates within the Parifhes: Yet the Religious in divers places of our Province, and others that dwell out of the Parifh do occupy or obtain by new Purchafes divers Farms and Eftates in the Parifhes of the faid Churches, infomuch that the refidue of the Parifhioners dwelling within the Parifhes of the fame Churches are not able of themfelves to bear the Burdens, or Reparations of the Premiffes, as incumbent on them; by which the Houfes of God become an Eye-fore, and many Inconveniences therupon enfue; we therefore by Approbation of this Council
think

° When Churches began to be repair'd by the Parifhioners, Managers muft have been appointed for this Purpofe. If Church-wardens had yet been fettled Officers, they would have been mention'd here.

p By this it appears, that the moft ancient way of raifing a Church Cels was by proportioning the Rates to the Lands ufed by the feveral Occupiers within the Pa-

MCCCXLII. Stratford's *Extrav.*

rish; without making any difference between Indwellers and Outdwellers. The Religious pretended that this was a personal Burden, and did not therefore belong to them, if they did not dwell within the Parish; therefore the Canonists asserted it to be a real Burden, and therefore to be charg'd on the Lands themselves. But this distinction seems to me design'd to puzzle rather than clear the Cause, especially because the Church rate is demandable, and due from the Persons only, not from the Lands (excepting from Land occupy'd by Quakers, which is a new case) nor can I conceive why the rate for Repairs should be real, for the Ornaments personal, since both are equally necessary to divine Worship. I think it happy that these Distinctions begin to be dropt by common consent, and all Land-holders equally charg'd to the Church. The former practice of obliging the Inhabitants to assess themselves distinctly for Ornaments, and other Charges, created endless Difficulties and Disputes, and was an Invention of the worst of Papists, the Monks and other Regulars to save their own Estates from this Charge. *L.* intimates, that by the Civil Law ther was a more effectual way of levying Church-rates on exempt Religious, than that of Church Censure.

think fit, that it be ordain'd, that the Religious, as well as others who have Farms, Estates, and Rents in any Parishes of our Province, or shall have for the future, if they do not belong to the Glebe, or Endowment of the Churches to be repair'd, be compelled by Ecclesiastical Censures by the Ordinaries to bear all Burdens incumbent on these accounts on the Parishioners, by Custom, or Law, which in proportion to their Estates, or Rents are imposed upon them, together with the rest of the Parishioners of such Churches as often as need shall be, whether they dwell within the said Parishes, or elsewhere.

5. Covetousness hath so possessed the Minds of some, that they think Gain to be Godliness, and sell what they ought to give. Tho' our Predecessor *Simon Mepham* of good Memory in the
1 Constitution

Stratford's *Extrav.* MCCCLXII.

¶ Constitution which begins *And because Ordinaries*, had ordain'd with the deliberate Advice of a Provincial Council, that nothing should be demanded for the Insinuation of the Testament of any Defunct, the Inventory of whose Goods did not exceed one hundred Shillings; yet because it is not provided what precise Sum may be receiv'd, when the Inventory exceeds one hundred Shillings, nor what may be taken for Acquittances upon Accounts being pass'd of the Administration of the Goods with relation to such Testaments; the Ordinaries of Places have made such excessive Demands both for Insinuations and Acquittances, that the Estates of the Defunct have been so exhausted by such Extortions that their Wills could not be fulfilled by what was left, even in relation to what was given to charitable and pious Uses: By which the Laity are exasperated against Ordinaries, as consuming what they ought to preserve, and are provok'd to Frauds and Tricks: Now to remove the Reproach of this Usurpation we ordain, that nothing at all be taken by the Bishops, or other Ordinaries for the Probation or Insinuation of any Testaments whatsoever. We permit six Pence only to be taken by the Clerks for their pains in writing such Insinuations. But if the Inventory of a Defunct's Goods do exceed ^r thirty Shillings in account; and yet does not amount to an hundred, let not the Bishops, or Ordinaries, or their Deputies, the Auditors of Accounts, or other Ministers that assist them presume to receive above twelve Pence for the Ac-

¶ See Constitution of *Mepham* at *London*, 5th A. D. 1328.

^r *L.* seems to resent this Constitution as arbitrary and unreasonable, and observes that the Officers of the Court were left at liberty to demand what they would, when the Inventory was under thirty Shillings.

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count, and doing all things that concern it for the Letters of Acquittance, and all other [Letters] whatsoever. If the Inventory amount to an hundred Shillings, or upward, but not to twenty Pound, let such as assist at the Accounts, and the others before mention'd be content with three Shillings for their Pains, for Letters of Acquittance and other things aforesaid. If it amount to twenty Pound, or upward, but not to sixty, let them not accept of more than five Shillings for their Pains, Letters, and other Writings. If it amount to sixty Pound, or upward, but not to an hundred, let them receive ten Shillings, and no more. If it amount to an hundred Pound, or upward, and not to an hundred and fifty, let them not presume to accept of more than twenty Shillings on the Accounts aforesaid. And so according to the amount of the Inventory for every fifty Pound other ten Shillings, and no more, over and above the said twenty Shillings. But we permit the Clerks for every Letter of Acquittance to receive * six Pence over and above the Premisses for his Pains in Writing. And if one receive more than the Sum before taxed either in Money number'd, or in any other things, let them be bound to pay the Doubles of it to the Fabrick of the Cathedral Church within a Month. If they do not, let such Bishops know, that upon delaying to do it above a Month, they are forbid entrance into the Church: Let Inferiors know that they are suspended from Office, and Benefice, till they have fully paid the Doubles

* L's Text has these Words *ultra premissos sex denarios*, intimating that they might take some Money, not mentioning how much over and above the forementioned Sums; but the *Oxford* Copy, and Sir H. S. p. 489. for *premissos* have *premissa*, which I follow as most probable.

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to the Cathedral Church. Let Letters of Acquittance by no means be granted to Executors of Testaments at the Probation, Approbation, or Insinuation therof, or afterwards, till a faithful account be given of the Administration, under pain of Suspension from entrance into the Church for six Months, which we will that the Transgressors incur *ipso facto*.

6. Altho' the Law of Nature grant to the Workman the Fruit of his Labour, yet it commands him not to eat who neglects his proper Business. Some Archdeacons and other superior Ordinaries of our Province gaping after gain, and casting the things of God behind them, indulge themselves in Hunting, and other Affectations of Grandeur in making their Circuits of Visitation, and send such to visit as cannot instruct the Clergy and People: They exact Procurations contrary to Canonical Sanctions from Churches, whose inside they do not see on the Visitation-day; from some that are visited not at all, either by themselves, or by any other; from many which they cause to be slightly visited by others on the same Day; any one of which would be sufficient for one Days Procuration for the Archdeacons themselves, and their allow'd Retinue; from every Church, Rector, and Vicar they exact their whole Procuration in Money: And often by a fraudulent Contrivance, when they are to visit Churches they come on the Night before the Visitation-day, and lodge in the Houses of the Rectors and Vicars to their great Cost with their cumbersome Retinues and ^t Dogs for hunting, and on the Morrow, when the Visitation is ended, they extort a whole Procuration in Money, as if they had not receiv'd any in Viſtuals, tho' some-

^t *Venaticis*, Sir H. S. p. 490. *Vecturis*, Horse and Men, Oxford.

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times they dine too with the Party visited on the same Day. Now we desiring, for the quiet of our Subjects, and for the Salvation of those who are guilty of these Excesses, to remedy all this, do strictly forbid by Authority of this Council, that any one presume to receive a Procuration due from a Church on account of Visitation, till he has diligently discharg'd that Duty by personally enquiring, and effectually inspecting as ought to be. If any one will visit several Churches in one Day, let him be content with one Procuration in Victuals, or Money, to which let every Church that is visited that one Day proportionably contribute as the ^u Canons direct: And if on the Night before the Visitation-day [he be entertained] at the charge of the Rector, or Vicar that is to be visited, or continue with them till after Dinner on the Visitation-day, let him make an Estimate or Allowance, of such Charges in the Procuration * (if the Visitor think that he may lawfully demand it in Money) or make an entire Compensation for it; so as not to receive the whole Procuration in Money besides the Charges [aforesaid], nor more of the Procuration to be paid

^u All the Canons made on this Subject, I think agree in this, but whereas *Innocent* the third, and *Gregory* the tenth forbid Procurations in Money, *Boniface* the eighth allow'd of this, *A. D.* 1298. *Sext. L.* 3. *Tit.* 20. *c.* 3. This made way for our present settled Compositions, and has at last in effect put an end to Parochial Visitations. Some attempts have been made here and there, toward the revival of them; but it will never be done effectually, while Archdeacons have their Procurations tho' they do not visit, and when they do visit, must do it in a great measure at their own Cost.

* *Benedict* the twelfth in his Bull concerning Procurations, of which I have given some account, just before these Constitutions, takes notice of some Churches, where

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where the Procurations were fix'd by an immemorial Custom, or Privilege; in such Churches the Visitor might demand the Procuration in Money, and the visited might refuse to pay it in any thing else. See *Extrav. Com. L. 3. Tit. 10.* In other Cases it was at the Discretion of the visited to pay either in Money, or Viſtuals, as below.

paid in Money than what remains over and above, thoſe Charges being deducted: Let him that tranſgreſſes know that he is ſuſpended from entering into the Church, till he has made Reſtitution of what he unjuſtly receiv'd. But becauſe ſeveral Archdeacons, and other Ordinaries on account of their Honour and Nobility, exceed y the number of Horſes and Men appointed by the Canons, ſo that they who pay their Procurations in Viſtuals are exceſſively burden'd beyond that rate which uſes to be paid in Money, we leave it to the Option of thoſe that are viſited, whether they will pay their Procuration in the z accuſtom'd Sum of Money, or in Viſtuals. And if the viſited Church hath Chapels depending on it, we ordain that the Archdeacons, and other Ordinaries who viſit, be content with ſuch a Procuration as uſ'd to be paid for one Church in that Dioceſe to which the Church belongs, for the Viſitation of that Church and her Chapels, under pain of Suſpenſion from Office and Benefice incurr'd *ipſo facto*, till they pay the Doubles of what they receiv'd over and above the ſingle Procuration to the Cathedral Church. And becauſe Archdeacons,

y See Conſtitution of *Hubert Walter* 5th, 1200, and of *Stephen Langton* 21^{ſt}. 1222.

z The accuſtom'd Sum, ſays *L.* here was 7*s.* 6*d.* that is 1*s.* 6*d.* for the Archdeacon and his Horſe, 1*s.* for each other of the fix Horſes and Men. But in all Caſes not ruled ſays *L.* we muſt have recurrence to the Extravaſant of *Benedict*.

and

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and other visiting Ordinaries charge the defects in the Churches and the Ornaments thereof, and in the Fences of the Cemeteries, and in the Mansion-Houses to be repair'd under certain pecuniary Penalties, which they extort from such as do not obey them by Censures Ecclesiastical; and so stuff their Purfes with the Money by which the defects might be repair'd, to the damage of the Poor who are in these Days oppress'd more than formerly: Therefore lest by means of such penal Exactions occasion of Ill-will be taken against Archdeacons, and other Ordinaries, and their Ministers; and that it ill becomes Ecclesiastical Men to gape after dishonest Gain arising from Penalties; we ordain that such Penalties as often as they are exacted be apply'd to the Reparation of such Defects as have been discover'd, under pain of Suspension from Office; which we decree that they who act contrary to the Premises by applying such Penalties to their own uses, do incurr *ipso facto*, till they have effectually assign'd what was so receiv'd to the Reparation of the said Defects.

7. When the Grievances of Subjects are remov'd, Superiors enjoy rest by their Ease, considering that some Officials of Bishops, of Archdeacons, and other Ordinaries celebrating their Consistories, Sessions, and Chapters from three Weeks to three Weeks, or from four Weeks to four Weeks thro' every Year, in several places of their Jurisdictions and Deaneries of our Province, do often go to such places where necessary Vic-tuals are hardly to be bought, and thereby do ag-grieve the Rectors, and Vicars of the Churches there or in the Neighbourhood, with excessive Charges, and give occasion of Scandal and Re-proach; especially because, if they are not spendidly entertain'd on those Days by the Rectors, and Vicars according to their own Wishes, they vex,
5 infest,

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infest, and molest them under various Colours and artificial Pretences; on account of these and other unjust Doings we ordain, with the deliberate Advice of this Council, that every such Consistory, Session, and Chapter be for the future celebrated in the most eminent Places of the Jurisdictions, and Deaneries aforesaid, or however where Viſtuals may be purchas'd by all; and that Officials and other Ministers of the Ordinaries at such Celebrations, and all other ^a Acts which they exercise instead of their Principals, perform what concerns them at the Expence of such their Principals. And we decree Citations to Consistories, Sessions and Chapters to be celebrated in any other Places, but such as are before describ'd, be *ipſo jure* null; and we will that the Officials who demand Entertainment of the said Subjects for expediting the Business of their Principals, or give occasion to molest them for refusing such Entertainment, be therupon suspended from Office, and from entrance into the Church ^b, and that they do so remain. ^c And whereas Bishops, Archdeacons, their Officials, and other Ordinaries, and their Commissaries, command primary Citations for the Correction of Offenders to be executed by Rectors, Vicars, or Parish Priests, it is frequently laid to their Charge, that they disclose Confessions made to them in the Court of Conscience in relation to those Particulars for which they are cited; by which they are greatly scandaliz'd, and the Parishioners for the future refuse to confess their Sins to them; now we ordain that primary Citations from the said Ordinaries be not serv'd by Rectors, or the others aforesaid, but be executed by

^a As Inquests on the Vacancies of *Benefices*, *L.*

^b *L.* asserts this to be a perpetual Suspension.

^c The following part of this Constitution is not in Sir *H. S.*

the

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the Officials, Deans, Apparitors, or other their Ministers. And if such Citations are committed to Rectors, Vicars, or Priests, that they be not bound to obey them: But that the primary Citations made by them, and the Censures or Processes consequent therupon be void and of none effect.

8. Whereas great Grievances are multiply'd to our Subjects by a burdensom multitude of Apparitors, which has nothing reputable in it; while Archdeacons have in every Deanery riding Apparitors, who have foot Apparitors under them, who walk with their ^d Garçons, naturally bent to Evil, to be entertain'd by Rectors and Vicars with whom they make too long stay. And these Apparitors not content with this, raise Contributions among them at the four yearly general Chapters; and yet make Collections of Lambs, Wooll, and Sheaves in their Season, and cause such as do not contribute to them to be molested, and maliciously vexed by right or wrong: Therefore by Approbation of this Council, we ordain, that every one of our Suffragans have one riding Apparitor only for his Diocese; and that every Archdeacon of our Province have no Rider, and but one foot Apparitor only for every Deanery, who may not stay with the Rectors or Vicars of the Churches more than one Night and Day in every Quarter of the Year, unless he be specially invited by them; nor make Collections of Money, Wooll, Lambs or other things, but thankfully receive what is freely given. But if more are deputed contrary to this [Statute] or if any of them rashly act contrary to the Premisses, let such as deputed them be *ipso facto* suspended from Office and Benefice, till they remove those who are thus de-

^d Vilest Servants.

puted,

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puted, whom we also ^e suspend from the Office of Apparitors *ipso facto*.

^e L. and Sir H. S. have it *perpetually* suspend. L. thinks this too hard, as every Body else must; therefore I follow the *Oxford* Copy, and leave it out.

9. Because the Offender has no dread of his Fault, when Money buyes off the Punishment; and the Archdeacons of our Province of *Canterbury*, and their Officials, and some that are their Superiors, when their Subjects of the Clergy or Laity commit Relapses into Adultery, Fornication, or other notorious Excesses, do for the sake of Money remit that corporal Penance, which should be inflicted for a Terror to others; insomuch that the Offenders are call'd by some Lessees of Sin; and they that receive the Money apply it to the use of themselves, not of the poor, or to pious uses; which is the occasion of grievous Scandal, and ill Example; therefore we ordain, that no Money be in any wise receiv'd for notorious Sin in case the Offender hath relapsed more than twice, under pain of restoring the Doubles of the Money receiv'd contrary to this [Statute] within a Month after the receipt thereof to be apply'd to the Fabrick of the Cathedral Church, and of Suspension from Office *ipso facto* incurr'd, in case the Restitution be not made within the Month: And in Commutations of corporal Penances for Money (which we forbid to be made without great and urgent Cause) let Ordinaries use so much moderation as not to lay such grievous excessive publick corporal Penances on Offenders, as indirectly to force them to buy them off with a great Sum of Money: But let Commutations when they are thought proper to be made, be so modest that the Receiver be not thought rapacious, nor the Giver too much aggriev'd, under the Penalties before-mention'd.

10. Tho'

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10. Tho' a Man ought to make his Purgation in the place where he was defam'd; yet the Officials of Bishops, Archdeacons, and other Ordinaries, and their Ministers by a contriv'd Malice, as appears, do assign such places to Clerks, and Laicks as offer to purge themselves of what is charg'd upon them, as are in the remoter Parts of their Jurisdiction, in the Country far from the place of their Jurisdiction where they committed the Offence, where Victuals and Necessaries can hardly be purchas'd; and an excessive number of Compurgators; and so make the innocent compound for Money to avoid Fatigues, Expences, and the difficulty of producing Witnesses at such Places; insomuch that some chuse to confess, and do Penance for Crimes which they never committed rather than to expose themselves, and Compurgators to such trouble; therefore we ordain that for the future such as are defam'd for Crimes and Excesses, but are willing to make their Purgation be not drawn from one Deanery to another, or to Country Places where Necessaries for Life are not to be found. In enjoining Purgations to such as are defam'd, let Bishops, Archdeacons, or other Ordinaries and their Officials impose no more than six Compurgators in case of Fornication, or any such like Crime; nor above twelve in case of Adultery, or other greater Crime under pain of Suspension from Office, which we will that the Transgressors incur *ipso facto*.

11. In detestation of that abuse of Archdeacons, and their Officials, and other Ordinaries who exact a certain excessive Sum of Money of ^f Priests that are to celebrate Divine Offices in their Jurisdiction before they may do it; thus converting the

^f This is to be understood of Mass-Priests, or any assisting Priests, who neither had Institution nor Licence to serve the cure from the Bishops.

Bounty

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Bounty of Priests of this sort (who used to present the Clerks that inserted their names into the *Matricula* with a Penny) into an unlawful Tax of six Pence, or therabouts; we ordain, that for the future the Archdeacons, and other Ordinaries, or their Ministers presume not in any wise to receive above one Penny, for which they are to register their Names at their first admission to celebrate divine Offices; under pain of Suspension from celebrating divine Offices, and from entering into the Church; which let the Transgressors incur *ipso facto*, till they pay the Doubles of what they receive to the Fabrick of the Cathedral Church.

12. Covetousness is so craving a Thirst, that some Clerks barbarously affecting by right or wrong to get Benefices that belong to the Patronage of Archbishops, Bishops, Abbots, and other Ecclesiastical and Secular Persons, but possess'd by others, they do by various Fictions pretend that such Benefices have long been vacant; and then while the Temporalities of Cathedral or Conventual Churches by reason of the vacancy [of the Bishopricks, or Headships,] or the ^b Lands of other [Patrons] are in the Hands of the King, they procure themselves to be presented, or the Benefices to be conferr'd upon themselves by him, altho' after these pretended vacancies [of the Benefices] they have been possess'd by several Persons for so long a time, that there is scarce any remembrance of it, and it is sometimes perfectly false: By occasion of which Presentations, or Collations, if the presented or collated are not admitted by the Ordinaries of the Places (as they cannot be while the Possessors are not canonically re-

^a The Register, or List which the Archdeacons kept of the Priests and Clerks of this sort.

^b The Heirs being Minors, and the King's Wards.

mov'd)

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mov'd) the King's Writ call'd *Quare non admisit* is obtain'd against the Bishop, and they implead, or procure him to be impleaded in the Secular Court, and cause the ⁱ occasion of their vacancy not only as to Law and Fact, but as to Jurisdiction to be debated in the said Secular Court, the Cognisance whereof the Secular Power unduly usurps; and the Possessors of the Benefices are not admitted to be Parties in the Trial; nor is ther any Credit given by the Secular Court to the Letters of Ordinaries concerning their Institution, Collation, or Induction: And the Bishops, and others who are not much affected with the danger, making a slight Defence, or none at all; the right of Patronage is carried in behalf of the Collator, or Collators, the Presenter, or Presenters; and when the secular Court writes to the Bishop (with a vain threat of executing the Judgment) to admit such Presenters or Collators, they sometimes by themselves, sometimes by others (who are ignorant of the Law, and whom they appoint their Deputies) do *de facto* institute such Presenters into the Place of living Possessors, [not] remov'd by Ecclesiastical Sentence, and induct, or rather intrude them into Possession of Benefices not really vacant and constitute them injurious Detainers, to the manifest Deception of Souls, and the enormous hurt of the rightful Possessors: We desiring to remedy these Excesses, by provision of this Council, do ordain that whatever Clerks for the future do procure themselves to be presented to Dignities, Parsonages, Offices, Prebends, or any other Ecclesiastical Benefices whatsoever, being full and possess'd by others, or that procure them to be conferr'd on themselves, if they do directly, or indirectly by virtue of the Writs *Quare non admisit*,

ⁱ As to this Preamble it is more particularly dark.

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or *Quare impedit*, or the like, prosecute the Bishops, or others in the Secular Court, without any mention made of the Possessors of the Benefices in the said Writ, or while they are not regularly remov'd (tho' they have been cited) unless they first cause an Inquest to be had concerning the means of the pretended Vacancies by the Mandates of the Ordinaries, and the Possessors to be canonically remov'd by competent Judges Ecclesiastical, they do *ipso facto* incur the Sentence of the greater Excommunication, and that they, as Excommunicates, be in no wise admitted to such Benefices, but be for ever deem'd incapable of them. But if contrary to these [Provisions] any one be instituted into a Benefice possess'd by another *de facto*, let such Institution, or Admission be void of all effect in Law: And let him, whatever he be, that does so institute, or admit in his own Right, or by Delegation, such a Presentee or Collatee, into a Benefice possess'd by another, the Possessor not being first remov'd by a sufficient authoritative Sentence in the Ecclesiastical Court, let him know that he is suspended from Office and Benefice ^k till the whole damage be made good to the former Possessor, as it ought. And if the Clerk so instituted, or admitted do permit himself to be inducted into a Benefice possess'd by another, let him be deem'd an Intruder, and incur *ipso facto* the Penalties of Intrusion contain'd in the Constitution of ^l *Othobon*, which begins *Damnabile Self-love*, and others inflicted by the Canons and holy Fathers. By this we intend not to derogate ^m from the power belonging to Ord-

^k If he be a Bishop two Months, if an inferior till, &c. says the *Oxford* Copy.

^l See Constitution of *Othobon* 10. 1268.

^m From the Royal Dignity and Crown in things that pertain to it. So the *Oxford* Copy.

C c

aries,

PREFACE. *Stratford's Constit. &c.*

narics, so as that they may not *de jure* confer Benefices, which they have a right to collate to, while they are any how possess'd by others, nor to restrain such by this Constitution as accept of the Collation of such Benefices.

13. Lest he who hath recover'd the right of Patronage in the King's Court lose the advantage of his Victory; if the Ordinary be writ to, that he admit the Clerk presented by the Recoverer to the Benefice, let the Presentee be freely admitted, if the Benefice be *vacant de jure*, and if ther be *de facto* no Canonical Impediment. But if the Benefice be not vacant, let the Ordinary intimate so much to our Lord the King, or his Justices, and excuse himself that he cannot fulfil the King's Mandate, because the Benefice at present is not vacant. And let the Clerk presented by him that has recover'd in the Secular Court, and that farther prosecutes against the Ordinary in the Secular Court, in contempt of the form of Prosecution to be made, as is premised, in the Ecclesiastical Court, incur *ipso facto* the aforesaid Sentences of Excommunication, Disability, and other Penalties of the Law and Constitutions publish'd in this respect. But the Recoverer may, if he please, present the Possessor to the Benefice, that so his right for the future may be declared.

A. D. MCCCXLIII.

PREFACE. *Archbishop Stratford's Constitutions.*

Sir H. S. vol. 2. p. 581.

MR. Gery, (and I wish this were his only mistake) in his *Appendix to Dr. Cave's Hist. Literaria*,

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Literaria, vol. 2. places an English Synod in the Year 1341. and cites for his Authority Sir H. S. vol. 2. p. 549. there the Reader will find a single Constitution, which is no other than the last but one of his Extravagants: It is there placed as an Appendix to the form of general Excommunications which this Archbishop order'd to be publish'd in his Diocese of Canterbury. The Council in which the following Constitutions were made, is said to have been holden on the Wednesday after the Feast of St. Edward King and Martyr, 1342. that Feast is on the 18th of March, and therefore if the Convocation met before Lady-day, 1342. they could scarce rise till it was come or past. For this reason, and to distinguish these Constitutions from the former, I place these Constitutions, A. D. 1343.

A. D. MCCCXLIII.

Archbishop Stratford's Constitutions.

Sir H. S. vol. 2. p. 581.

THE Constitutions of the Lord John de Stratford Archbishop of Canterbury, publish'd in the year ^a 1342. on the *Wednesday* next after the Feast of St. Edward King and Martyr, in the Church of St. Paul's London, in the presence of his Comprovincial Bishops, viz,

The L ^{ds}	{	Radulph, London,	Thomas Hereford,
		Roger, Coventry and	Radulph, Bath,
		Litchfield,	Simon, Ely,
		John, Exon,	Thomas, Lincoln,
		Robert, Sarisbury,	Wolstan, Worcester,
		Robert, Chichester,	David, Bangor.

the

^a But L. with greater Exactness says sub Anno 1343.

C c 2

However

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However the Reader will excuse me for putting them in the beginning of this Year, for the better distinguishing them from the former Constitutions in my References.

the rest appearing by their Proxies. *Edward* the Third reigning in *England*, *Clement* the Sixth being chief Pontif.

The ambition of some hath infested the Holy Church the Spouse of *Christ* endow'd with the privilege of Liberty from above: Therefore the chief Pontifs of the Church of *Rome*, and secular Princes, and especially the Catholick illustrious Kings of *England* recollecting the Plagues with which the *Aegyptians* were stricken for enslaving the Children of *Israel*, who were a Type of the Ministers of the Altar; and that the Oppressions of the Church of *England* never turn'd to the advantage of them that were the Authors of them, but to their detriment, and to the hazard of their Salvation, have endow'd the *English* Church with many Prerogatives of Liberty, Privilege, and Immunity; yet because humane Sensuality prone to Evil from the youth up hath so subverted good Manners both in Clergy and People, that the Remedies hitherto provided have not been sufficient to restrain evil Appetites, and to preserve the Rights and Liberties of the Church of God; we *John* by Divine Permission Archbishop of *Canterbury*, having invok'd the Grace of the Holy Spirit, see it proper to put a stop to the Attempts of perverse Men, and for the extirpating of Vice, and for the reforming both of Clergy and People, to ordain with the Authority of this Council, and with the Consent and Advice of our Brethren and Fellow-Bishops of the Province of *Canterbury*, what is to be observ'd in times coming.

1. The illustrious *Edward*, King of the *English*, inspir'd with the Grace of God from above, desiring

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firing that the Peace of the Church and Kingdom be firmly preserv'd, hath long since requir'd us, and our Fellow-Bishops by his Letters, that publick Malefactors and Disturbers of the Peace of Holy Church, and of his own Peace, Felons, Maintainers of Felons, Conspirators, such as are perjur'd in Assizes, or Juries, such as knowingly break their Oaths before the Justices of our Lord the King, Undertakers of false Actions, the Maintainers and Fautors of those who do manifestly procure the Disturbance and Violation of the Liberty and Right of the Church and Kingdom, within the Kingdom be restrain'd by Ecclesiastical Censure in every Diocese, and ° desir'd that such may be involv'd in the Sentence of the greater Excommunication, and be publickly denounc'd excommunicate; therefore we imitating the Piety of the said King, desiring to curb the Boldness of such perfidious Men by the Authority of this Council, do will and pronounce that all such Malefactors as shall knowingly offend in this manner within the Province of *Canterbury* for the time to come, do *ipso facto* incur the Sentence of the greater Excommunication. And we reserve the Absolution of them to the Ordinaries of the Places, or in the vacancy of the Cathedral Churches to such as shall exercise Episcopal Jurisdiction there, except at the point of Death: And that by the greater Solemnity of the Excommunication the Exploits of such Offenders may be the more abhorr'd, we charge by the Approbation of this Provincial Council, that all and singular the Malefactors aforesaid be publickly, and in general denounc'd excommunicate in every Cathedral, Collegiate, and Parish Church of our Province of

° Yet no Ecclesiastical Judge, says *L.* is to excommunicate his Subjects at the Command of the King, or Secular Judge.

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Canterbury on the first *Sunday in Lent*, on the Feast of *Corpus Christi*, and two other Festival, solemn Days yearly, with an intimation of the Absolutions being reserv'd as aforesaid.

2. The outward Habit often shews the inward Disposition: And tho' the Behaviour of the Clergy ought to be the Instruction of the Laity; yet the prevailing Excesses of the Clergy as to Tonsure, Garments and Trappings give abominable Scandal to the People; because such as have Dignities, Parsonages, honourable Prebends, and Benefices with Cure, and even Men in holy Orders scorn the ^p Tonsure (which is the Mark of Perfection, and of the heavenly Kingdom) and distinguish themselves with Hair hanging down to their Shoulders, in an effeminate manner; and apparel themselves like Soldiers rather than Clerks, with an upper Jump remarkably short and wide, with long hanging Sleeves not covering the Elbows; ^q their Hairs curl'd and powder'd, and Caps with Tippets of a wonderful length, with long Beards, and Rings on their Fingers, girt with Girdles exceeding large and costly, having Purfes enamel'd with Figures, and various Sculptures gilt, hanging with Knives, like Swords in open view; their Shoes chequer'd with red and green, exceeding long and varioussly pink'd; with

^p Tonsure sometimes signifies not only the shaved Spot on the Crown of the Head, but the whole Ecclesiastical Cut, or having the Hair clipt in such a Fashion, that the Ears might be seen, but not the Forehead.

^q Here I follow the *Oxford* Copy, which has it *crinibus furrarâ, vel sandalo revolatis, & reversatis*. For whatever is the meaning of *furrarâ*, I think it most probable that by *sandalum* is meant the Flour of the best sort, and that therefore thereby is meant Powder, or Starch, which then as well as now was used for the improvement of Hair. I can make nothing of Sir H.S's Copy here.

Croppers

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Croppers to their Saddles, and Baubles like Horns hanging down on the Necks [of their Horses], and Cloaks furr'd on the Edges, contrary to canonical Sanctions, so that ther is no distinction betwixt Clerks and Laicks, which renders them unworthy of the privilege of their Order; we therefore to obviate these Miscarriages as well of the Masters and Scholars within the Universities of our Province, as of those without, with the Approbation of this sacred Council do ordain and charge, that all benefic'd Men, those especially in holy Orders, in our Province, have their Tonsure, as comports with the state of Clergymen, and if any of them do exceed by going in a remarkably short and close upper Garment, with long, or unreasonably wide Sleeves not covering the Elbow, but hanging down, with Hair unclip'd, long Beards, with Rings on their Fingers in publick (excepting those of Honour and Dignity) or exceed in any Particular before expres'd; let such of them as have Benefices, unless within six Months time from the committing of these Misbehaviours they effectually reform upon Admonition given, incur Suspension from Office *ipso facto* after the end of those six Months; and if they continue under it for three Months, let them from that time be suspended from Benefice *ipso jure*, without any farther Admonition: And let them not be absolved from this Sentence by their Diocesans (to whom by the Authority of this Council we reserve the Absolution of them) till they pay the fifth part of one Years profit of their Benefices to be distributed to the Poor, in the Places where they are benefic'd by their Diocesans within three Months after. And if during their Suspensions they meddle with divine Offices, or with the Administration of their said Benefices, as they did before, that from that time forward they be de-

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priv'd of their said Benefices. Let unbenedic'd Men, who commonly and publickly pass for Clerks, if they exceed in the Premises, or in any of them, be disabled from obtaining a Benefice for four Months, unless they do within six Months effectually reform themselves upon Admonition given, Farther let such as are Students in the Universities of the said Province, and that pass for Clerks, if they do not effectually abstain from the Premises, be *ipso facto* disabled from taking any Ecclesiastical Degrees or Honours in those Universities, till by their Behaviour they give proof of their Discretion as becomes Scholars; with a saving for other Punishments declar'd against such Offenders, Yet by this Constitution we intend not to abridge Clerks of open, wide & Surcotes, call'd Table-cotes, with fitting Sleeves to be used at seasonable times and places; nor of short and close Garments while they are travelling in the Country at their own Discretion. But because Bishops cannot with a good face reprehend others, if they do not reform themselves and their Domesticks in this respect, we ordain that the Bishops of this Province observe a decorum in their Tonsure, Habit, and other Points before-mention'd; and cause it to be observ'd by such Clerks as dwell with them. [^a And because it little avails to make Laws, unless they are put in Execution, we charge by Authority of the Council, that the Ordinaries of the Places do, as they ought, make diligent enquiry every Year by themselves, or by others, concerning these Matters, and that they observe the pre-

^a Made to save better Clothes, especially at eating and drinking at home, *L.*

^b This is not in *L.* But it is in both the other Copies. *L.* begins his Gloss at these words, *we therefore— with the Approbation of this sacred Council.*

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sent Constitution, and with caution cause it to be observ'd against Offenders.]

3. Altho' ¹ *Orto* and *Othobon* of good Memory, formerly Legates of the Apostolical See in *England*, took care by their Constitutions, that Churches should not be farm'd out to Laymen; nor to Clerks for above five Years; yet some by a fraudulent Device lately contriv'd, do let out their Churches to Laymen, and sometimes to Women; or to Clerks, without the Diocesan's License, contrary to those, and other Constitutions; and for a Colour insert the Name of a Clerk, together with that of the Layman, who is Party to the Contract, in the Instruments made for letting such Churches; altho' the Clerk there named be not a Party to the Contract: And the said Laymen by Means thereof do dwell in the Manſes, and Houses of the Churches so let to Farm, together with their Wives and Children, and Families, and publickly exercise Trades in them, and do other unbecoming Business there, to the scandal of the People, and the damping of their Devotion, and to the defrauding of the Churches, and lessening of their Rights; therefore by the Approbation of the Provincial Council, and by way of Addition to the said Constitutions, we ordain, that from this Time forward, so often as an Ecclesiastical Benefice is farm'd out to a Clerk and a Laick in our Province, or the Name of a Clerk is inserted together with that of a Laick in the Instruments made for this Purpose; or when a Clerk is feign'd to be the Farmer, but is not; or if Laicks in their own Names collect the Fruits of Benefices farm'd, and convert them directly to their own Use, that such Contracts be of no force, and that by virtue of them one Party be

¹ See Constitution of *Orto* 7. 1237. of *Othobon* 20. 1268.

not

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not oblig'd to the other. But we will that they who from this Time forward do so let, and take Benefices to farm, be oblig'd to pay the third Part of the Fruits thereof, or of the estimated Value thereof, the Sum to be made up between them, if the Lessee be solvent, if not, the whole to be paid by the Lessor, to the Fabrick of the Cathedral Church of the Place; notwithstanding that the Name of a Clerk was inserted. And because the Religious, and other ^u Proprietors of Benefices in our Province, affirm that they are not ^u bound by the Constitutions aforesaid; we ordain, with

^u Such as Colleges in the Universities. But *L.* observes, that this is contrary to a Constitution of *Innocent* the third, *A. D.* 1212. *Decretal. L.* 3. *Tit.* 18. *c.* 2. and was not therefore of force so as totally to disable them from farming out Benefices, but only so as that the Lay-farmer might have no perpetual Property in the Tithes, or Power over the Clerks.

Farther, *L.* in his Gloss at the words *Provincial Council*, declares he knows not who were present at this Council, and particularly whether they were there, whose Interest was concern'd (I suppose he means the Heads of Religious Houses, and the Proctors of the Diocesan Clergy) he goes on in the following manner: "I say this on the account of what is here ordain'd, " Several Particulars whereof are repugnant to common " Right. For you ought to know, that ther is a general, " Provincial, and Synodal (that is Diocesan) Council. To " a Provincial Council the Bishops are to be summon- " ed, and none else are necessary. Yet if others come " they are to be admitted; others also must be sum- " mon'd, that is such whose Actions are to be call'd " in Question." By these last words, I suppose, he intimates that the Impropiators, and Incumbents ought to have been at this Council, because their Management of their Spiritual Revenues was here debated, and Determinations made in relation to them. But Bishops only are mention'd in the Preface.

^u One would think that Legatin Synods confirm'd by

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by the Pope, or his Proxy should have bound the Religious, as well as Seculars; but they were the Darlings of the Pope, and under no Restraints so long as they were true to him.

with the Approbation of this Council, that if they let to farm their Benefices, or their Portions of Tithes and Profits in them, which they enjoy by virtue of their Appropriations, either to Clerks, without License of the Diocesan, or to Laicks in any manner whatsoever; or are guilty of any Excess whatsoever, contrary to the Tenour of this or other Constitutions, they be for the Future punished in manner aforesaid.

4. Men blinded with damnable Error cannot escape the Perdition of their Souls; while they pay the tenth Sheaf to the Harvesters for their Labour, and by a great mistake in counting, they leave out that tenth Sheaf in their Reckoning, and so pay the Eleventh instead of the Tenth; and insist, that they ought to pay the Hire of their Labourers in the Harvest, before the Corn be rith'd, in contempt of the Commandment of the Old Testament and the New: And ther is a new malicious Invention of some Laymen, in exclaiming against the Servants of Ecclesiastical Men as Rogues, and causing them to be arrested, and causing their Masters to be molested for carrying away Tithe Sheaves, left as such in the Lands, but yet not markt. And some of them implead Ecclesiasticks, and their Servants, in the Secular Courts, and put them to great trouble and charge for carrying their Tithe of Corn, and other Things thro' their Ground: Others permit them to go only round about Ways into, and from their Farms, making the proper accusom'd Roads for their Carriages difficult to be pass'd, contrary to Ecclesiastical Liberty: Farther, some permit not the Tithes, tho' markt, and set out to be carried off

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off their Lands, so long as any of their own Corn remains there; but knowingly suffer it to be trampled upon, and consum'd by their own, and other Mens Cattle; and do give, or cause to be given manifold Impediments in the paying, collecting, and carrying away of Tithes: We therefore to obviate such damnable Attempts of perverse Men, by a wholesome Remedy, by the Advice of this Council, do pronounce them to be involv'd in a Sentence of greater Excommunication, who are guilty of excess in the Premises, or in any of them within our Province from this Time forward; and such as command or procure such unlawful Things to be done, or take upon themselves the doings of those, by whose wicked Tricks, the Right, approv'd Custom, or Liberty of the Church is diminish'd; or any Injury, Damage, or Vexation offer'd, contrary to Ecclesiastical Liberty; and we specially reserve the Absolution of such to the Diocesans of the Places, except at the Point of Death.

5. Altho' God hath promis'd abundance of all Things to those that duly pay their Tithes; yet to our Grief, some of our Province, contrary to the Doctrine of the Old and New Testament, refuse to pay Tithes to God and the Churches, to which they are notoriously due, of their Ceduous Wood-lands, and of the Wood lopt off from Ceduous Trees, (which costs less Labour, than the Fruits of the Earth) on Account, that they have

y I cannot find that any one has ever given us an *English* word for this *Latin* one; 'tis evident that it was not intended to signify Coppice, or Under-wood only, because Trees lopt'd are call'd *Arbores cadue* in this Constitution; and 'tis certain that the Clergy understood it as comprehending all fell'd Wood: For ther was a Complaint against them in Parliament in the 45th Year of King *Edward* III. now reigning, that Tithe was demanded of Trees of above twenty Years growth, under the name of *Sylvæ caduæ*.

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not paid such Tithes in Time past, which they judge to be lawful, as establisht by long Custom; and they also make a doubt what is to be judg'd Ceduous Wood: We therefore observing, that, if the Church hath for a long Time been defrauded of her Right, the Crime is not lessen'd, but increas'd by this Means; and that ^a Famine, and want of all Things oppress them, who do not duly pay such Tithes, declare by a deliberate Resolve of this Council, that ^a Ceduous Woodland, is that which is kept on purpose to be fell'd, and which being cut from the Stump or Roots grows again; and that a real, predial Tithe of it is to be paid to the Mother-Churches; and that the Possessors of such Woodlands are to be compell'd by all manner of Church Censures, according to Canon, to the Payment of the Tithes of the Wood, when fell'd, as of Hay and Blade.

^a Some would have it, that a Famine now prevail'd in the Kingdom, and that the Convocation was willing to have it believ'd, that it was a Judgment on the People for not paying Tithe of Wood; but the words of the Constitution may well be taken as a general Observation, without any view to the present Times in particular.

^a L. here asserts, that this Description is to be taken disjunctively, and that Wood is ceduous, if either it be kept on purpose to be fell'd, or grows again from its Stump, or Root; and concludes that Timber-trees are Tithable, according to the first part of the Description; altho' he lived eighty Years after the making of the Constitution, and long after the Statute made in the 45th Year of this King's Reign against demanding Tithe of Trees of twenty Years growth and upward.

6. Violent Presumption subverts Reason, and provokes Divine Vengeance, not only coveting what belongs to others, but by impudently invading what is forbidden, inasmuch as Laymen sacrilegiously lay Hands on what is assign'd for Ecclesiastical

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ecclesiastical Uses. In many Parts of our Province, a Custom is grown up for Laymen unlawfully to seize, and convert to various Uses, at their own discretion, the Oblations made in Churches, Chapels, or Cemeteries, at the Altars, Crosses, Images or Relicks there; altho' under the old Law, none of the *Israelites* might eat the Loaves, that were offer'd, but the Sons of *Aaron* only: Much more may not Laymen touch what is offer'd with a regard to God in the Church, which outshines the Shadow of the Law: Therefore, with the deliberate Advice of this Council, we decree, that all Laymen whatsoever, who seize, take away, or dispose of the Oblations made, or to be made in Churches, Chapels, or the Porches, or Cemeteries belonging to any of them, under colour of any Work, Custom, or other Pretence whatsoever, without consent of the Ecclesiastical Persons, to whom the taking of them belongs, and for a sufficient, lawful Cause, to be approv'd by the Bishop of the Place, be laid under a Sentence of greater Excommunication, *ipso facto*.

^b As the building or repairing a Church, or Steeple, &c.

^c As for instance, if the Church want Reparation and Furniture, and they who should find it are not able, and one be willing to supply this Defect at his own Cost, on Condition he may take the Offerings made at such a Place for such a time: *L.* owns this reason *sufficient* for the Bishop to grant such a Licence, but he will hardly allow it *Lawful*.

7. We publish in a new manner the ^d Statute of *Boniface* of good Memory our Predecessor, which begins, *Because when Laymen*, &c. concerning which doubts have been rais'd, in relation to the Goods of Intestates, and the last Wills of Tenants in Villainage, and others of a servile Condition,

^d See *Constit. of Boniface* 15. 1261.

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by adding some things to it, and omitting others; we decree it hereafter firmly to be observ'd in the Words here following; it sometimes happens, that when Laymen, or Clergymen, by divine Judgment die Intestate, the Lords of the Fees do not permit their Debts to be paid out of their Moveables, nor their Goods to be distributed on their own Behalf, for the Use of their Wives, Children, Parents, or otherwise, at the disposal of the Ordinaries in regard to that ^e Portion, which according to the Custom of the Country particularly belongs to the deceased: Others obstruct the free making and execution of the Testaments, and the last Will of Testators being ^f Tenants in Villainage, or of a servile Condition, as also of Women unbetroth'd, or married to themselves, or to other Men, against the Laws and Customs of the Church hitherto practis'd, to the offence of the Divine Majesty, and the evident injury of Ecclesiastical Right; therefore we, by Authority of this Council, decree, that all and singular Offenders in these Points, or in any of them, shall for the future be under the Sentence of the greater Excommunication. And let not the Probation and Approbation of such Testaments by Laymen be in any Case requir'd, when they have once been prov'd and approv'd by the Ordinaries to whom it belongs, unless some ^g Lay Fee chance to be devised in such Testament. Nor let the Clergymen or Laymen of what condition

^e See Note [1] below in this same Constitution.

^f L. denies that these *ascriptitii* were Slaves, unless in regard to their Masters; he says they were such as had belonged for thirty Years to the Soil, and so made by Prescription, or had confess'd themselves to be such twice under writing.

^g Lands in this Age might be devised by Testament, says L. by the special Privilege of some Cities and places, *Lindwood*.

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soever, hinder the ^h Testaments and last Wills of the deceased from having their full effect, as to what may be bequeath'd by Custom or Law: Let the Transgressors know, that they are for the future involved in a Sentence of greater Excommunication by Authority of this Council. And we decree, that the Spiritual Sword be us'd against those who wickedly exceed in the Premisses, as against Violators and Disturbers of Ecclesiastical Liberties. And we forbid the Executor of any Testament whatsoever, to administer the Goods of the deceased; unless a faithful Inventory of the said Goods be first made, the Expenses of the Funeral, and of making such an Inventory only excepted: And we will, that such an Inventory be deliver'd to the Ordinaries of the Places, within a Time, to be set by them at discretion. And after a Testament hath been prov'd according to custom before the Ordinaries, ⁱ let not the Execution or Administration of the Goods be committed to any, but such as are able to give a due Account of their Administration, and can give sufficient Security, if there be occasion, for the doing of it, when they are duly requir'd by the Ordinaries of the Places. And we ordain by Authority of this Council, that ^k no Religious, of what Profession soever, be Executors of Testaments, unless it be granted him by the Indulgence and Licence of the Ordinaries, and that the Parish Church have its accustomed ^l Right out of the Portion, that particularly belongs

^h Testaments are solemnly made in writing, Wills by Nuncupation.

ⁱ In case that the Executor relinquish, or be disabled.

^k See Constitution of *Peckham* at *Lambeth* the 20th, where *L.* calls this Clause against religious Men's being Executors, a Constitution of *Boniface*.

^l The Portion of the deceased was what was assign'd by

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by the Ordinary for the supposed Benefit of the Defunct's Soul, which was to be determin'd by Custom: Sometimes, says *L.* it was the whole personal Estate, as when ther was neither Wife, nor Children (and he should certainly have added) nor Parents: Sometimes an half, as when ther is a Wite surviving but no Children; sometimes a third part, as when ther is both Wife and Children: Or the Portion of the Defunct may signifie the Legacy left to some Religious House, where he chose to be buried by his last Will. In this case the Parish Churches share was one fourth. *N. B.* Before the 31st. Year of this King's Reign the Ordinary was not bound to grant Administration to any, but might administer himself; or if he chose to grant Letters, he might grant them to whom he pleased; but by a Statute then made he is ty'd to grant them to the next of Kin, if he be a lawful Person.

longs to the deceased. Farther, we ordain, that no Executor do apply or appropriate any of the Goods of the deceased to himself by Title of purchase or otherwise, unless what was given him by the Testator while alive, or left him in the Testament or last Will, or what is allow'd him by the Ordinary for his pains as Executor, or what was owing to him from the deceased, or for the reasonable Charges of administering, under pain of Suspension from entering into a Church, which we will that the Transgressors incur *ipso facto*. And let them not obtain Absolution, till they have restor'd what was so unduly apply'd, or appropriated to themselves, and paid the doubles thereof to the Fabrick of the Cathedral Church, whereof the deceased was a Subject, out of their own Goods. And we command all and singular the Premises to be solemnly publish'd twice every Year, in every Church of our Province of *Canterbury*.

8. Improbability hath so blinded the interior Sight of some Ecclesiastical Judges of our Province of *Canterbury*, that they do not permit the Executors of benefic'd Clerks, and of other Men of

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what Condition soever to dispose of according to the direction of the Testaments, according to the Sanctions of Law and Custom, they usurp the Moveables of Testate Intestates, that have Moveables with jurisdiction, (which after the Payment should be applied to pious Uses) so to distribute them at pleasure; and [the deceased] themselves, and the upon consideration whereof many sick do often alienate their moveables, that Churches are defrauded, Creditors and Wives, who by Law and Custom share in the Goods, are damnified of what is due to them, to the Souls: Therefore we ordain, that other inferior Ecclesiastical Judges of *Canterbury* do not at all conclude except in Cases expressly permitted Goods of beneficed Clergymen doubtfully make Testaments by the Kingdom of *England*) or of any what pretence soever; but free Executors of Testaments to dispose of them distribute such Goods of and over and above, after the Payment for pious Uses, to the Kindred, their Servants and Friends, to the Souls of the deceased, and themselves, but some small and their own Pains, under Penalty entring into the Church; Ecclesiastical Judges incur excommunication, till they have made satisfaction in the Premises.

^m See the foregoing Constitution above.

ⁿ Lat. *propinqui*, near either in B¹

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9. We observe to our grief, that thro' the growing Wickedness and Corruption of Men in the Province of *Canterbury*, Prelates of Churches, benefic'd Clergymen, and some Laymen, when they apprehend that they are in danger of Death, do while alive give away or alienate all their Goods, or so great a Share of them, that not only the Churches (to the Reparation whereof, as also of the Books and Ornaments they were oblig'd) are depriv'd of all remedy; but also the King, and other Creditors are irrecoverably defrauded of their Rights; and their Wives and Children, if they are married, of the Portions due to them by Law and Custom: And some who assist sick Men in their Extremity, have advis'd and procur'd such Alienations, and by their Entreaties hindred the free making of Testaments, and so maliciously deprive Churches, and others aforesaid, of their Right: Therefore we, by the deliberate Advice of this Council, do will, that all and singular within our Province, who do thus maliciously or fraudulently give and alienate their Goods, and they who are conscious to such Fraud or Malice, the Accepters of what is thus alienated, and they who give their Advice, Assistance or Countenance to it, do incur the Sentence of the greater Excommunication *ipso facto*. Farther, let the Donors thus alienating their Goods for the grievousness of their Excess, be depriv'd of Ecclesiastical Sepulture, any ° Absolution from the said Sentence whatsoever

° Here *L.* says several things of Absolution, which are not unworthy of my Readers Observation. It ought, says he, to be deny'd to none at the point of Death. But he denies that any can give it, but a Priest; an Archdeacon, says he, if he be not a Priest cannot give Absolution in *foro Penitentia*, tho' he may in *foro conscientio*: And tho' Absolution is not to be denied to such an Offender as is mention'd in this Constitution,

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from the Excommunication inflicted by Law at the point of Death; yet he is not by this freed from the Penalty there following (*viz.* want of Christian Burial): When it is said *any Absolution whatsoever*, if it be meant of judicial Absolution, it may signify either an Absolution *ad cautelam* (which uses to be given, when the Person excommunicate *de facto* offer'd to prove that he was not excommunicate *de jure*; and he had eight Days allow'd him to prove it) or true and final Absolution. But, says he, the *Absolutio ad Cautelam* has no place where the Excommunication is pass'd by Law, as here; or *any Absolution whatsoever* may denote a solemn, or unsolemn Absolution, an Absolution in the Court of Penance, or in the Contentious Court, whether made in particular, or in general while the Man is alive, or after his Death. But, says he, can such Absolution be given by way of potestative Jurisdiction without Satisfaction first made? The reason of the Doubt is because the Offence is manifest: But it appears, that however manifest the Offence be, yet upon giving Security to obey the Law the Excommunicate may be absolv'd. Yet he adds this is true only in case of Contumacy, or when the Offence is not manifest, or when God only is injur'd by it. For if the Offence be certain and manifest, and the Interest of the adverse Party is affected by it, then Absolution cannot be given before Satisfaction be made, tho' the Excommunication be pass'd by Law or Canon, as it is here: And he asserts the same to be true, when the Church is immediately affected by it. But if the Offender be too poor to make Satisfaction, Absolution may be given upon the Offenders putting in Security to make Satisfaction, whenever his Fortunes enabled him to do it. He farther adds, that Absolution ought not to be given but in presence of the adverse Party, and after Satisfaction made, unless that Party be contumaciously absent, tho' cited. And if Absolution be given without this, it is good, yet not without Satisfaction made. A simple Priest at the point of Death may absolve from Excommunication pass'd by Law, or by Man. If he die excommunicate, yet he may be absolv'd by him, that was of right to have absolv'd him, if he had been alive; and being absolv'd he may be buried in the Cemetery, and Prayers may be made for him; unless the Excess be grievous, as here. When a simple Priest absolves at the hour of Death, yet Security for Satisfaction

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Satisfaction ought to be given, at least on Condition that the Man's Fortunes hereafter enable him to it: And he supposes that this may ground an Action against the Offender's Heirs. But he concludes, that tho' generally he who is absolv'd may be buried, as being free from mortal Sin, yet here it is otherwise provided in *terrorem*; especially because it is supposed that he can make no Satisfaction, as having given away his Estate before: Otherwise, if he were able to make Satisfaction, or if Satisfaction could be had from his Heirs Christian Burial should not be deny'd him.

ever notwithstanding. And lest the difficulty of proving the Fraud and Malice, should render this Provision ineffectual; we ordain, that when any of the said Province do so give away, or in any manner alienate all their Goods, or so large a Share of them, that it is evident the Churches, or other Creditors cannot be satisfied as to what is due to them, nor the Wives and Children as to their Portions aforesaid, such Donation or Alienation be deem'd to be done thro' Malice or Fraud, no farther Proof being requir'd.

10. A probable Good often becomes an experienc'd Evil, and then an alteration is allowable: It is a devout Custom of the Faithful to observe Night-watches, in behalf of the Dead before their Burial, and to do it sometimes in private Houses, to the intent that the Faithful there meeting together and watching, might devoutly intercede for them with God: But by the Arts of Satan, this wholesome practice of the Ancients is turn'd into Buffoonry and filthy Revels; Prayers are neglected, and these Watchings are become Rendezvous for Adulteries, Fornications, Thefts, and other Misdoings: As a remedy for so rise a Disease, we ordain, that when Ecclesiastical Men have perform'd the *P* Memories of the Dead, none

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P Or *Exequies* as *L.* calls them; it was an Office for
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the dead just now expir'd, as the *Vigilie* was an Office for the Nights, and divided into several Hours, or Parts: These were used while the *Corpse* was above Ground: *L.* here lets us know upon what ground the Devotions for the Dead were so intolerably multiply'd in this Age; for he lays it down as a certain Maxim, that it is better that superfluous Devotions be offer'd in behalf of Men, to whom they do neither good, nor hurt; than that ther should be any deficiency of them in behalf of those to whom they do good: He cites this from Saint *Austin* in *Gratian*, *Causa* 13. *Qu. 2. c. 19.* and it seems evident, that in his time the rule of praying, and offering for none that died in a habit of Sin began to be forgotten.

for the future be admitted to the accustomed Night-watches in private Houses, where dead Corpses often remain till their Burial, the Relations and such as say Psalters for the Dead only excepted, under pain of the greater Excommunication, which they who keep such Watches contrary to the Premisses ought to fear.

11. The Lust of Men is most prone to what is forbidden; therefore Persons too near akin, or who cannot *de jure* be married on account of other Impediments, yet often desire to be married *de facto*, that under colour of Matrimony they may fulfill their unlawful Desires; and yet being sensible that the Impediments are known in the Parishes where they dwell, because they find the Priests of that Parish not dispos'd to solemnize the Marriage, on account of the notorious Impediments, or the vehement Rumour of them, they remove for a time to places far distant, and especially to Cities or populous Towns, and there procure Marriage between them to be celebrated *de facto*, sometimes without publishing of Banns, and at unreasonable Hours and Times, in Churches, Chapels or Oratories, and continuing there, or afterwards returning to their former Home, they cohabit together

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gether as Man and Wife in an unlawful Manner, to the Perdition of their Souls; because the Ordinaries of the Places, and others among whom they dwell, for fear of trouble and charge, will not or dare not impeach them for their unlawful Coupling, nor publickly denounce their Crimes: We therefore desiring to extirpate this evil Practice, by Authority of this Council do ordain, that they who from this time forward do contract and solemnize Marriage, while they know, or have a probable suspicion of such Impediments; and the Priests, who knowingly make Solemnization of such prohibited Marriages, or even of such as are allowed, between such as do not belong to their Parish; (without having first obtain'd the Licence of their Diocesans, or of the Curates of the Parties contracting) and they, who by force or fear, cause Marriages to be ^a clandestinely celebrated in Churches, Chapels or Oratories; and such as are present at such Solemnization, tho' conscious of the Premises, do incur the Sentence of Excommunication *ipso facto*; and that they be four times every Year publickly pronounc'd Excommunicate in general; and yet ^r coerced with other

^a A Marriage is clandestine, says L. if it be without Witnesses, if the Bride be not demanded of him at whose disposal she is, and endow'd according to Law, and if the marry'd Couple do not abstain from each other two or three Days in honour to the Benediction (yet he confesses ther is no Sin in these Omissions) or if it be done without Banns. And he mentions three other Instances from *Hofiensis*, 1. When one come to the Age of Puberty, but oblig'd to another (by a promise made in his Impuberty, I suppose) Contracts without Licence of the Church. 2. When one marries in his Impuberty, while a former Contract of his is in dispute. 3. If one in Puberty contract contrary to a special Interdict. Yet in all these Cases the Marriage holds.

^r He that marries only without Solemnity, is to be

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punish'd lightly, says *L.* but if the Bridegroom know his Bride before the solemn Benediction, and making his Oblation in the Church, he is to be punish'd as a contemner of Ecclesiastical Custom; that is, as a transgressor of the Divine Will; (and the Canon Law here cited, says as much. *Dist.* 11. c. 7.) But see how he goes on: They who contract without Witnesse, deserve a perpetual Excommunication. If Marriage be contracted without Banns, it is three Years Suspension to the Priest, discretionary Penance to the Parties married, according to c. 51. of the *Lateran* Council 1216. If one that is in Puberty, but pre-engaged to another in his Impuberty, marry, or contract without the Licence of the Bishop, he and they who are present being conscious of it, are to be punish'd at discretion. If one in Impuberty contract without the Bishop's Licence, 'tis null. *Sext.* *L.* 4. *Tit.* 2. c. 1. If Persons marry contrary to the special Interdict of the Church, the Penance is arbitrary, but the Marriage holds. *Decretal.* *L.* 4. *Tit.* 16. *per. tot.*

other Punishments appointed against such as celebrate Marriage without Banns first publish'd, or otherwise in a clandestine Manner. And because the Constitution of *Simon Mepham* of good Memory, Archbishop of *Canterbury*, our immediate Predecessor; which begins, *Because Inconveniences*, &c. seems to many to be of ^f uncertain Meaning toward the latter end, we intending to put the Sense beyond doubt, do by approbation of this Council declare, that it is so to be understood, that every Priest, Secular or Regular, who presumes to be present at the Solemnization of Marriage, at any other Place but a Parish Church, or a Chapel having of old Parochial Rights belonging to it, do *ipso facto* incur the Punishment pass'd in that Case.

^f The uncertainty consists in this, *viz.* whether Parochial Churches include Parochial Chapels. See *Const.* 8. of *Mepham* 1328.

12. By a perverse Innovation it comes to pass, that when Prelates of Churches make enquiry in-

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to the Manners, Offences, and Excesses of their Subjects, the Great Men and Secular Potentates, endeavouring to obstruct them in their Office, do forbid their Lay-Tenants and Villains to go out of the Place of their Abode to appear before them, upon the Ordinaries summoning them to undergo Corrections in a Canonical Manner for their Crimes and Excesses, (tho' the Correction of them is known to belong to them by Law and Custom) or for their insinuating and proving Testaments, or for the yielding up their Accounts of their Administration of the Goods of Defuncts; and do also hinder, or cause them to be hindred from doing the same in ^t Places belonging to their Lordships; and do usurp to themselves a jurisdiction in ^u these Points: Others do indict for excessive Extortion, such Ecclesiastical Men as exercise their Jurisdiction in laying ^x corporal or ^y pecuniary Penances
on

^t It is certain that by the ancient Laws of this Kingdom Men of servile Condition could not without their Lords Leave go out of the Bounds of the Manor to which they belong'd; and it should seem that this was thought a just Excuse for a Villain's not appearing at the Summons of the Ordinary, and it seems plain, that to obviate this Excuse, Ordinaries did sometimes keep their Courts in an ambulatory manner, in the place wherever it was, where the Offender lived.

^u This I conceive is to be understood principally of the probate of Wills, which many Lords did always claim as belonging to themselves.

^x *L.* here only mentions Fustigation as a corporal Punishment to be inflicted by Ordinaries, and says it should be executed more moderately on Gentlemen, than on those of a base Condition.

^y Tho' *L.* make no question but corporal Punishment may be inflicted by Ordinaries, yet he argues against Pecuniary, and concludes, that it may be done by such Ordinaries as have power of dispensing with the Crime of which the Party is convicted; or by Archdeacons

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deacons, where ther is a Custom for their doing of it. In another Place, (p. 52.) he says, they ought not to lay pecuniary Penance on a Man, oftner than three times in one Year for the same Crime; for fear (I conceive) lest they should seem to act out of Covetousness.

on their Subjects for their Faults and Excesses, and in compelling them, as they may by their ordinary Power, to the Performance therof; or in accepting pecuniary Commutations instead of corporal, in proportion to their Faults, as justly they may: And they attach and imprison the Persons so indicted, and compel them to make answer in these Matters in their Secular Courts, and cause pecuniary Mulcts to be laid upon them on this Account unduly, as they please: And many, oftentimes come together with Tumult and Clamour into the Ecclesiastical Courts, and terrify the Judges and Parties litigant, and such as have other Business there to be dispatch'd; so that Ecclesiastical Jurisdiction is confounded, and the Office of Prelates is for a time set aside and obstructed: And Impunity encourages Transgressors to incur greater Punishment still, and to lay themselves open to the Arts of the old Enemy: Others cause many to be indicted, attacht, imprison'd, and variously to be molested in the Secular Court, for bringing their Causes, according to Law and Custom, to be tried in the Ecclesiastical; as likewise the Advocates who plead for them, the Proctors and other Ministers, and the Ecclesiastical Judges, who take Cognizance in such Matters: And they often lay heavy Mulcts, and variously afflict and vex their Tenants and others, to their great Pains and Charges, if they betake themselves to the Ecclesiastical Court for Causes and Matters, which of Right and Custom are there to be handled; if they do not desist: Others do unjustly obstruct, or cause to be obstructed the Bishops, when
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they are dispos'd duly to exercise their Jurisdiction in the Cities and other Places subject to them, concerning such Things which notoriously belong to them; or such as have the care of their Lawful and Canonical Mandates for the exercise of their Ecclesiastical Jurisdiction, and the Execution of them; and they presume to seize, beat or injuriously to treat the Messengers that carry such Mandates, and that desire duly to execute them: Some Temporal Lords also, and their Bailiffs, pretending falsely that the Goods of such as are deceased within their Districts, are devolv'd to them, do hinder the Ordinaries from converting such Goods for the payment of the Defuncts Debts, and to other pious Uses for the Salvation of their Souls, (as was of old ordain'd by consent of the ² King and Great Men, in behalf of the Ecclesiastical Law and Liberty) to the great Diminution of Ecclesiastical Right and Liberty, to the obstruction and enormous impairing of the Jurisdiction belonging to Ecclesiastical Men: We therefore, with the deliberate Advice of this Council, do pronounce them and every of them to be involv'd in a Sentence of greater Excommunication who offend in the Premises or in any of them, or that commit these Things or any of them; or that give their Consent, Advice, Aid, or Favour to them, or that take such Facts, or any of them on themselves, or accept them as done in their Behalf or Name. And we reserve the Absolution of them specially to the Diocesans of the Places. And we charge, that such Offenders be four times in every Year publickly denounc'd excommunicate in general, in every Parish Church of our Province of *Canterbury*.

² Stat. 13. *Edw.* I.

13. Secular Princes receiving their Power from
God

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been particularly admonish'd to forbear his Company ; with the greater, if they have been so admonish'd.

14. Because it is forbidden by the Laws both^d Divine and Secular, that Laymen should have the disposal of things which belong to the Church, that scandalous Usurpation is to be turn'd out of Doors, by which some Parishioners of our Province of *Canterbury*, not knowing their own Property and the Bounds of it, or rather arrogantly going beyond them do at discretion fell, pull up or mow the Trees and Grass growing in the Cemeteries of the Churches and Chapels, without and against the consent of the Rectors and Vicars therof, or of the Stewards deputed by them ; and apply them to the use of themselves, or of the^e Churches, or of other Men, with a sacrilegious Impudence, from whence daily arise great dangers of Souls, Contentions, and grievous Scandals between the Prelates and their Parishioners ; we declare by Authority of this Council, that these rash Scorners are involv'd in the Sentence of greater Excommunication pass'd in the^f Constitution of *Othobon*, Legate of the Apostolical See in E. and in the Council of *Oxford*, against Violators of Ecclesiastical Liberty. And we charge, that they be according to the Rites and Canons publickly denounc'd excommunicate by the Rectors, or Vicars, who perceive their Churches injur'd as to these Particulars by any such Usurpa-

^d *L.* says the Canon Law is here call'd Divine.

^e Trees in Church-yards are to be cut down only for repairing the Chancel, or (by way of Charity) the Church, by the Stat. of 35 *Ed. I. c. 4.* Under this pretence Laymen, I suppose, took liberty to cut down such Trees. *L.* intimates, that some Copies of this Const. had an additional Clause, declaring that Parishioners were not to cut down such Trees, without leave of Rector or Vicar ; but that this was not genuine.

^f See 12 Const. of *Othob.* 1268. 1st of *Langton* 1221.

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tion hereafter unlawfully made; and we decree, that the Usurpers aforesaid be repell'd from the Communion of the Faithful, till they offer effectual amends, and do competently well perform it.

15. The Impudence of perverse Men erecting its rebellious Crest dares, with a Contempt to all that is Reverend, unjustly to violate Sequestrations lawfully laid by Bishops, or their ^s Vicars General, or Principal Officials for just and real Causes, on Goods Ecclesiastical, or other, in cases permitted by Law; insomuch that their Canonical Precepts are despis'd; that therefore such Offenders may be restrain'd from their Excesses, we ordain with the deliberate Advice of this Council, that such ^h Violators of things sequester'd within our Province, after, and in opposition to Publication thereof openly made in the places where the things thus sequester'd remain, do incur the Sentence of greater Excommunication *ipso facto*. Yet, if an Appeal be made, and lawfully prosecuted, from the sequestering Judge the Possessors of the sequester'd Goods may freely, and with impunity use them pending the Appeal.

^s Principal Officials are for hearing Causes only, Vicars General for the exercise of all voluntary Episcopal Jurisdiction, excepting what the Bishop reserves to himself, as collating to Benefices, &c. See Bishop Gibson's excellent Discourse on the Distinction of these two Offices, which have been of late years united, in his Preface to the *Codex*.

^h They violate things sequester'd, who apply to their own use such valuable Chattels as are by judge of Court put into a third hand to be kept, till it appears to which Party in suit the said Chattels belong.

16. The prevailing Wickedness of the times, while the World is still waxing worse, causes the Minds of Men to exert the utmost efforts of Malice; insomuch that some of our Province endeavouring

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vouring to spight others do fraudulently and maliciously obtain the King's Warrant in Actions of Account, Trespass, or such like, against those to whom they design Mischief, [as being in] a County to which they do not belong, in which they never were, or had any Dealings, or committed any Offence, or did Bulinels for any Man; and so prosecute them who know nothing of the matter, that they are ⁱ outlaw'd or banish'd out of the Kingdom. Now because Process, and Sentence against such as are ignorant, and defenceless is justly condemn'd by the Law; nor should Mens malice be indulg'd; we ordain, that whatever Clerks, or Laicks in our Province do for the future surreptitiously, fraudulently and maliciously obtain, prosecute, cause or procure such Proceedings; or that do knowingly give their Advice, Help or Countenance, or take them on themselves, as done in their Name, they do *ipso facto* incur the Sentence of the greater Excommunication.

ⁱ Here I follow Sir *H. S.* and *L.*'s. Copy was here the same with that when he wrote his Gloss; tho' now it is *relegantur* for *utlagantur*. These were gross Abuses, and deserv'd a Censure, tho' the proper redress of such Evils was in Parliament.

We charge that the Constitutions of this Council, and the provisional Remedies be inviolably observ'd for the future in our Province of *Canterbury*, and do injoin our Fellow-Bishops, and all Suffragans, and command them to publish them, and to cause them to be publish'd by others, as the Law requires, and to be made known to all for the common utility, the praise and glory of the Name of *Jesus Christ*. May he extirpate Vice, and graft Virtue on his Church, and direct the Government of the Kingdom of *England*, grant Peace and cherish Concord. *Amen.*

A. D.

A. D. MCCCXLVII.

Archbishop Zouche's Constitutions.

William la Zouche *Archbishop of York* publish'd the following Constitutions, at Thorp near the City of York, in a Provincial Council there holden: John Thursby his immediate Successor gave them a new Sanction, and from his Constitutions only we have them, Sir H. S. p. 603.

William by Divine Permission, &c. Lat. When we diligently consult the Good and Ease of our Subjects, then we believe we exercise the Pastoral Office. Earnestly considering of late the Difficulties and Excesses, which Stipendiary Chaplains have, and do occasion in ^k agreeing for, and receiving their Annual Stipends, by reason of the scarcity of such Chaplains; and earnestly desiring to restrain and moderate these Difficulties and Excesses, as far as by God's help we can; for the good of such of our Subjects as are willing to hire such Stipendiaries, we have thought fit that it be ordain'd, ^l with the Advice of our Assistants well learn'd in the Law, after full deliberation, that all and singular Chaplains already ordain'd, or hereafter to be ordain'd, be content with the underwritten Wages, under the Penalty mention'd below, viz. That no Chaplain, altho' he is to be ^m Parochial, take of any Man in any wise for his Annual Stipend above the Sum of six Marks,

^k I read *Conventions*, not *Convect*—

^l By this, and several other Particulars it appears, that this, and the three following Constitutions were first made in a Diocesan Synod; and that when they were enacted into Provincial Constitutions by this Council, the unskilful Scribe did not make proper Alterations.

^m The Parochial Chaplain seems to be a Curate by the following part of this Const.

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either

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either in Money number'd or in other Things; which Stipends are known to be [but] sufficient, all things consider'd, especially during this scarcity of Chaplains. And we forbid all and singular such Chaplains ordain'd, or to be ordain'd, that any of them take more than the Sum before tax'd for his Annual Stipend, under pain of Suspension from celebrating Divine Offices for one Year; which said Suspension we have decreed, that he who receives more do incur *ipso facto*. We farther forbid all and singular Rectors, Prelates of Churches, Vicars, and other Ecclesiastical Persons who have Chantries, Chapels, Oratories, Hospitals, or other Ecclesiastical Benefices whatsoever within our ^a Diocess, in virtue of Holy Obedience, and under pain of forty Shillings to be applied to our ^a Almshouse, to permit any one to celebrate Divine Offices as stipendiary Chaplain in their Churches, Chapels, Chantries, or other Benefices, unless he be content with the Sum of six Marks for his Annual Stipend. And we in the same Manner, and under the same Penalty forbid all and every of the aforesaid, to admit or permit any one to celebrate anniversary or peculiar Masses in their Churches, Chapels, Chantries, Hospitals, Oratories, or any Ecclesiastical Places within our Diocess whatsoever; till the Parish Churches are first provided with Parochial Chaplains, at the rate before tax'd: And lest these our Ordinances, Prohibitions and Statutes, should thro' disuse lose their Effect, we will, and ordain by this Writing, that diligent and exact Enquiry be made every Synod, to be celebrated in our Church of York every Easter and Michaelmas, and at other seasonable Times every Year, to the intent that they who

^a See Note [1].

^a I read *Eleemosynaria*, not *Eleemosynæ*.

observe

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observe not the Premises be punish'd, as is P below directed; and otherwise according to Canon. Yet we intend not by these our Ordinances and Statutes, occasion'd by the scarcity of Chaplains, to derogate from a Synodal Constitution publish'd in former Times, concerning the Stipends to be receiv'd by hired Priests.

P It should be *above directed*; unless this Const. be maim'd. And this as well as the rest of these Constitutions, hath had ill Fortune in falling into the Hands of ignorant or thoughtless Transcribers.

2. Whereas by means of Womens and Nurses laying little Children in Bed by them, the said Children are often overlaid and suffocated; and so death proceeds from them, of whom the perfecting of their Life was expected; now we forbid Fathers, Mothers, Nurses and all that have the custody of Infants to lay them in the Bed together with themselves, but in Cradles, or other secure Places apart, where there is no fear of suffocating them; and that in giving them suck they do by no means fall asleep upon their Cradles.

3. Altho' the Earth be the Lords, and the fullness thereof, yet he hath graciously granted it to be till'd and manur'd by his People; but hath reserv'd the Tithes of their Fruit and Labour to the Priests and *Levites*, who are pre-elected as the Lord's Portion to minister in the Churches: By virtue of which Reservation, the Rectors of Churches and Ecclesiastical Persons, freely take the Tithes of Sheaves, and other Things within the Parishes committed to them, and have freely carried, or caus'd to be carried the said Tithes by and thro' the same Places, by and thro' which the Owners of the Farms do and have carried away the nine Parts of such Sheaves, or caus'd them to be carried by others; and the said Rectors and Ecclesi-

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astical Persons have been in possession of this *quasi* Liberty peaceably, continually and quietly, for time beyond the Memory of Man; yet some degenerate Sons of Holy Mother Church, not considering the heavenly Favour in giving them nine Parts do obstruct the Ministers of *Christ* in divers manners by exquisite malicious Inventions in the free taking of the tenth Part: Some [permit] them freely to take the Tithes [but not] to carry them by the accustomable Ways and Roads; but maliciously compel them to be carried by long round about Windings and Turnings, others do not permit the Sheaves, tho' set out and mark'd for Tithes, to be carry'd off their Lands while any of their own Corn remains there, and fraudulently permit the Tithes knowingly to be trampled on, and consumed by their own and other Mens Beasts; and do not permit the Rectors to give Orders concerning such Tithes, to the Offence of the Divine Majesty, the notorious Violation of Ecclesiastical Liberty, the great Damage and Grievance of the Rectors and Ecclesiastical Persons, and to the pernicious Example of others: Desiring therefore according to our Duty, to make wholesome Provision against such Malice and Wrong, wickedly committed in contempt of God and the Church, by the Oracle of these Presents we firmly forbid, that any one of what Condition, Quality, or Degree soever, do hinder or disturb, or cause to be hinder'd or disturb'd, Rectors of Churches or other Ecclesiastical Persons, their Servants or Ministers from wholly and freely taking the Tithes of Sheaves, Hay, and all other things whatsoever belonging to them and their Churches, whensoever or wheresoever arising, unconsum'd by Beasts, undiminis'd by any other means wilfully used to the damnifying of them; and to carry them thro' such places as the nine
Parts

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Parts are accustomedly carry'd, and to dispose of them at their own Discretion, under pain of the greater Excommunication, which we will that all and every Transgressor do incur *ipso facto*.

4. *Contains the prohibitive part of Archbishop Stratford's ninth Constitution, A. D. 1347. tho' in different words, yet to the same sense, and adds,*

" It had been forbidden that such Alienations or
" Donations shou'd be made for the future, under any colour, or by what contrivance soever
" by the provident Deliberation of a Provincial
" Council celebrated in the Chapter-house of our
" Church of York;

Then he proceeds to the penal part in these following words, viz.

And because Experience teaches that a general Prohibition does not reclaim such as are given to Mischief, unless they be restrain'd with fear of Punishment, we by the Authority of this Synod do lay all, and singular, who give their Advice, Help, or Countenance to such Donations or Alienations under a Prohibition from entering into the Church *ipso facto*. And let such as so give, or alienate their Goods in the ^a Diocese aforesaid for their grievous Excesses be depriv'd of Ecclesiastical Burial, [if] ther be proof of any Fraud, or Malice——

^a See Note [1] *Constit.* 1st.

The remainder is partly unintelligible, partly a repetition of what had been said before.

5. Whereas all show of corporal Levity ought to be far from the sacred Order, it is utterly forbid by the sacred Canons [and] Fathers under heavy Punishments and Censures, that Ecclesiastical Men in Holy Orders, especially Priests (whose Behaviour is soon imitated by the Laity, to whom they ought to be a Pattern of good Life) should

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wear Clothes ridiculous and remarkable for their shortness, or seek glory from their Shoes, but study to please God and Man by the Habit of their Bodies and the State of their Minds, and shew their inward by their outward Decorum; so that nothing may appear in them offensive to the Eyes of the Beholders; for as the ^r Scripture says, an incomposed Body shews the disposition of the Mind, and indecent Apparel vilifies them that wear it, and scandalizes the weak Spectator: Yet many Clerks in Holy Orders, and Priests forgetting their Dignity, Office, and Order do manifestly apparel themselves contrary to the Constitutions, and the Penalties thereby ordain'd, in Clothes so short as not to come down half way of the Legs, or even to the Knees, contrary to decency and the honour of the Sacerdotal Order, out of an affectation to shew their Shapes, and the looseness of their Manners; and they do not desist daily, and publickly to do so to the hazard of their own Souls, the Scandal of the Clerical Order and Church, and evil Example of others, *Christ's* faithful People: Therefore this Provincial Council desiring to put a stop to these Affectations and to the danger of Souls, hath decreed and ordain'd that all Punishments and Censures whatsoever provided by such Constitutions, Canons and Statutes in what manner soever be put in Execution against such Offenders.

^r I do not find any such Words in Scripture; but there may be some thing like it in *Ecclus.*

6. Because many ^r Archdeacons, Deans, Abbots, and other Ecclesiastical Men pretending to have Jurisdiction, and the cognizance of Matrimo-

^r By this it should appear, that Archdeacons had cognizance of Matrimonial Causes in the Province of *York*.

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nial Causes are not asham'd to put in Commis-
 sion simple and unskilful Men now of late for
 the examining and determining such Matrimonial
 Causes (which ought beyond all other Causes to
 be more diligently debated, and more maturely
 determin'd) contrary to sacred Sanctions and the
 Institutes of holy Fathers; and do make such
 insufficient Persons, and even [†] Laymen Officials,
 Commissaries, or Guardians with Power of hear-
 ing Matrimonial Causes, to the hazard of their
 own Souls and the prejudice of the Common-
 wealth; and these Officials or Guardians, do sub-
 stitute others insufficient and unskilful (by the In-
 tervention of a Sum of Money sometimes) to take
 cognisance of Matrimonial Causes between some
 certain Persons, and to determine them, insomuch
 that these Officials or Guardians by themselves
 or by their Commissaries do not only hear Causes
 of Matrimony and Divorce, but pass unjust and
 in many respects indiscreet definitive Sentences,
 from which we know by Experience, that not
 only Scandals, but danger of Souls does daily a-
 rise; now we [‡] John Archbishop with Advice of
 our Suffragans and Clergy assembled in a Provin-
 cial Council desiring to put a stop to such Scan-
 dals and Dangers, so far as by God's help we can,
 following the holy Fathers and sacred Canons, do
 firmly forbid and prohibit all and singular Arch-
 deacons, Deans, Abbots, Provosts, and other Ec-
 clesiasticks whatsoever that have Jurisdiction in
 our City, Diocese or Province of York, and their
 Officials and Guardians of Spiritualities deputed,
 or to be deputed, that they the aforelaid presume

[†] From hence we may see the original of Lay Chan-
 cellors.

[‡] It should certainly be *William*; but the Scribe's
 Thoughts were on *John Thursty*, who re-enacted these
 Constitutions.

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not to make, or substitute to take cognisance of Causes of Matrimony or Divorce, as to what concerns the Contract, any others than fit, provident, faithful Men learned in the Laws, or at least competently well exercised in judging such Causes; and that they do not give definitive Sentences any where else than in the Chapters to be celebrated by them, under pain of Suspension to the Archdeacons, Deans, Abbots, Provosts, and others claiming Ecclesiastical Jurisdiction, and under pain of the greater Excommunication to the Officials, who substitute insufficient Men in the Premises, and to the said insufficient Commissaries, who knowingly accept such [Deputation] and do hear such Causes; and we will, that all and singular the aforesaid, who knowingly or thro' gross affected Ignorance presume to transgress this Constitution, and do not effectually observe it, do *ipso facto* incur the Punishments declar'd by this Constitution, as is above more distinctly and fully express'd.

7. Altho' the sacred Canons forbid clandestine Marriages (as dangerous to the Souls and Bodies of Men, and bringing damage to the Contractors and the Common-Wealth,) under grievous Penalties; yet some contriving unlawful Marriages, and affecting the Dark, lest their Deeds should be reprov'd, procure * every Day, in a damnable Manner, Marriages to be celebrated without Publication of Banns first duly and lawfully made, by means of Chaplains that have no regard to the fear of God and the prohibition of the Laws, without any dread of the Penances pass'd and publish'd against such as contract Marriages in this Manner, or celebrate or are present at them. We therefore the Archbishop aforesaid, with the consent of our Suffragans and Clergy, desiring to repress the Im-

* I read *Indies*, not *Judeis*.

pudence

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puudence of such Chaplains, and of the Parties contracting, and of others who procure the Solemnization thereof by an accumulation of Punishments, do prohibit all the foremention'd, under pain of the greater Excommunication, which we will that all of the City, Diocese and Province, who transgress this Constitution do incur *ipso facto*; and let no Priest of what Condition soever, whether Secular or Regular, celebrate or be present at a clandestine Marriage; but let Banns be first publish'd for three solemn Days, as often as Marriage is to be solemniz'd between their Parishioners, in the Churches or Chapels to which the contracting Parties belong, a sufficient Time being assign'd for the making Objections, if any can and will do it; and let the Priest, notwithstanding this, enquire, whether ther be any Impediment, or whether any one declares against, or contradicts it in any wise: And if any Objection, or probable Suspicion do appear against their Coupling together, let the Contract in no wise be celebrated, but expressly forbidden, till a competent Judge have declared in a legal Manner what ought to be done; or else, till the Parties contracting are dispens'd

y *Lat. vel alias de superiore ordinare licentia cum contrahere volentibus quoad temporum interstitia Bannorum Editionem fueris dispensatum*; which I thus read, *vel alias de superioris ordinarij licentia cum contrahere volentibus quoad temporum interstitia, & Bannorum, &c.* If my Conjecture stand, here is a proof of Licences for marrying without Banns two hundred Years before the Reformation. And I am persuaded, that the words cannot reasonably be so alter'd, as not to be a proof of this Practice. Licences of this sort were always restrain'd to the superior Ordinaries, that is Bishops in places not exempt. *The Interstices, or Intervals of time* are meant of the Term fix'd by him that publish'd the Banns for making the Objections, mention'd just before in this Constitution; and I cannot but wish that such a fix'd Term had been always indispensably observ'd.

with

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with by the Licence of the superior Ordinary, as to the Intervals of Time, [and] the Publication of Banns. And we reserve to ourselves within our City and Dioceſe, and the Perſons therunto belonging, and to our Suffragans in their Cities and Dioceſes, or to our Superiors the Abſolution of all thoſe, who incur theſe Punishments, or any of them, excepting at the Point of Death (² as touching ſuch Impediment): And we declare all Sentences pronounc'd in Cauſes of Matrimony or Divorce, in any wiſe contrary to the Tenour of this Conſtitution to be null and void, ſo as not to have the Name or Effect of Sentences, when paſſ'd by ſuch Perſons; with a ſaving to the Conſtitutions of ² Otto Legate of the Apoſtolicall See in *England*, providently publiſh'd in regard to the Cognizance of ſuch Cauſes; and all other Canons, Conſtitutions and Statutes, publiſh'd in relation to the Premiſſes, from which we intend not to derogate in any reſpect, but deſire that they be obſerv'd.

² I know not the meaning of theſe words, as here placed.

² See Conſtitution of *Otto* 23. 1237.

And leſt theſe Ordinances, Conſtitutions and Prohibitions in the Premiſſes, loſe their Effect thro' diſuſe, (which God forbid) we will, ordain, and command all our Subjects by this Writing, under the Penalty aforeſaid, that in every Chapter celebrated in every Deanery, in Cities and other proper Places and Times, all the Premiſſes be read and ſolemnly publiſh'd by the Deans; and that every Year diligent and exact enquiry be made and had in the Premiſſes, to the Intent, that they who do not obſerve them, may have the Punishments aforeſaid, and other Punishments, as ſhall be thought expedient, inflicted on them, according

Islep's *Constit.* MCCCLI.

according to Canon. And lest Rectors, Vicars, and other our Subjects of the Clergy and People should pretend their Ignorance of the Premisses, we enjoin all and singular Rectors and Vicars, in virtue of Obedience, and under the Penalties aforesaid, that they, and every of them have and take true Copies of all the Premisses within two Months after the Publication hereof notified to them, and observe all and singular of them, in all and every of the Articles, and do publicly intimate and explain them every Lord's Day to their Parishes and Subjects, as they desire to avoid Canonical Vengeance. In Testimony of all which, we have caus'd our Seal to be hereunto put. Dated at *Thorp* near *York*, as to the Sealing therof, on the last Day but one of the Month *September*, *A. D.* 1347, and the 15th of our Consecration.

A. D. MCCCLI.

Archbishop Islep's Constitution.

Sir H. S. vol. 2. p. 597. not extant in L.

A Constitution of the Lord *Simon Islep* Archbishop of *Canterbury*, publish'd at *Lambeth*, on the twelfth Kal. of *March*, *A. D.* 1351, in the Reign of King *Edward III.* and the Pontificate of *Clement VI.* *Lat.*

Simon by Divine Permission Archbishop of *Canterbury*, Primate of A. E. Legate of the Apostolical See, to our venerable Brother Lord *Ralph*, by the Grace of God Bishop of *London*, Health and Brotherly Charity in the Lord. When we lately in a Parliament Royal holden at *London*, insisted upon a due Reformation of some Injuries at which we could

MCCCLI. Illep's *Confite.*

could not connive, done to God and the Holy Church ; for that Secular Judges putting their Scythe more than usually into God's Harvest, notoriously exceeding the Bounds of their judicial Power, and usurping a Power over the Lord's Bishops, who are by no Law subject to them, in criminous Cases, are not afraid to condemn and deliver such as are notoriously, publickly and commonly known, and by themselves and others esteem'd Clerks, and even Priests, nay and Religious too, after they have first ensnar'd and indicted them for several Crimes and Misdeeds, to a shameful and unwonted Death, to the contempt and scandal of God and Holy Church, and the grievous hazard of their own Souls ; ^b it was ther objected, (by way of Reply, and that very grievously on account of the specious Appearance of the Answer) and that by the King himself, as well as Noblemen and Commons in conjunction with them, that Clerks strengthen themselves in their Wickedness, under pretence of their Privilege, and when they are taken in their Crimes, or at least justly indicted and convicted, according to the Custom of the Kingdom, before a Secular Judge, and upon demand made in due Manner by the Prelates, or their competent Ordinaries, or their Commissaries, they are surrender'd to God and the Holy Church, and to the Demandants, with reverence ; they are with so much backwardness and Favour committed to Goal, and are so deliciously sed there, that the Prison intended for a Punishment of their Crimes, is turn'd into a Refreshment and delicious Solace, and they are pamper'd in their Vices by ease and such incitements, and yet make their Escape out of Custody as injurious to them. And some notoriously in-

^b Here the Points and Particles are misplaced both in Sir H. S. and the *Oxford* Copy.

Islep's *Constit.* MCCCCLI.

famous Criminals, that are in truth wholly without excuse, are yet so easily admitted to their Purgations^c; that every [Clerk] thus deliver'd [by the Secular Judge] hath sure hopes of returning to his former evil Life, by one means or other; so that not only the Clerks thus purg'd become more wicked than ever, but innocent Clerks by such easiness and neglect, are encourag'd to become criminous, to the great infringement of the Peace of the Kingdom. Whereupon we considering the Premises and other Particulars, lest the abuse of Ecclesiastical Liberty, which so abounds as to put the whole Kingdom into a disturbance, should turn to the prejudice of Clerical Privilege, with the advice and consent of our Brethren present in the said Parliament, and of the Proctors of the Absent, have thought fit thus to ordain concerning the Imprisonment of Clerks; that is, let our Brethren and other Ordinaries of Places, and Ecclesiastical Judges of the Province of *Canterbury*, to whom the receiving and imprisonment of Clerks of Custom belongs, take care that Clerks thus deliver'd, or to be deliver'd for the future on account of the Premises, according to the liberty of the Church, to be kept in Goal, be closely imprison'd with all proper care and expedition, according to the Quality of the Persons, and heinousness of their Crimes, that they may not to the scandal of the Church return to their former way of Life, from an Imprisonment intended for a Punishment. And if any Clerks so deliver'd are notoriously infamous Malefactors, or guilty by their own Confession, of Felonies, or other grievous Crimes; and so publickly diffam'd, that they cannot deny that the Crimes were committed by them, or that their

^c *Procurator*, & *suspectus* are here added in the original, to what purpose I see not.

Enlargement

MCCCXLI. *Islep's Constit.*

Enlargment would bring manifest scandal to the Church and her Liberty, or to the Tranquillity of the Kingdom, that then every *Wednesday, Friday* and *Sabbath-day*, they be allow'd once a Day only Bread and Water of Affliction; on other Days, Bread and Small-Beer; but on the Lord's-day, Bread, Beer, and Pulse, for the honour and eminence of that Day. And let nothing else be given them by way of Alms or Gratuity from their Acquaintance or Friends, or for any pretence or reason whatsoever: Nor let any Purgation be granted to them. But, if any so imprison'd be innocent, or not grievously suspected of the Misdeeds charg'd upon them, nor notoriously guilty by their own Confession, nor publickly diffam'd, as is abovesaid, then we will, that such caution be used, that ther be no Proceedings made toward their Purgation in a judicial manner, till diligent enquiry be first made by the Ecclesiastical Ordinaries, or Judges competent in this respect concerning their way of Life, Reputation, Behaviour, Conversation in the place of their Birth, and where the Crime for which they were indicted and imprison'd was committed, without giving any warning of this enquiry to their Acquaintance, or Friends. And if the place of the Birth, or of the Crime of the imprison'd Clerks be not within the Diocese of the Ordinary Judge Ecclesiastical, in whose Prison they are kept, then upon the desire of the said Ordinary, let the Ordinary Judge Ecclesiastical of the places of the Clerk's Birth, or where the Crime is pretended to have been committed be bound to make enquiry concerning the manner of Life, Reputation, Behaviour, and Conversation of the said Clerks, and to certify the Ordinary that sent, or signify'd his desire to him concerning the Premises. We therefore command and strictly injoin you to observe

Islep's *Constit.* MCCCCLIX.

observe all, and singular the Premisses so far as you are concern'd; and that ye in our stead by our Authority injoin (by your Letters containing a Copy of these Presents) every one of our Fellow-Bishops, and Suffragans that they effectually observe the same: And we command that our Brethren before the Feast of St. *John* Baptist, do certify us what they think fit to do in the Premisses. Do ye also certify us before the said Feast what ye have done, or thought fit to do in this respect. Dated at *Lambeth* 12 Kal. of *March*, A. D. 1351, and of our Consecration the third.

A. D. MCCCCLIX.

Archbishop Islep's Constitution.

THE Constitution Provincial of the Lord *Simon Islep* Archbishop of *Canterbury*, published at *Osteford*, A. D. 1359, in the thirty fourth Year of the reign of the most glorious *Edward* the third King of the *English*, and the eighth Year of the Pontificate of *Innocent* the sixth. Lat.

Simon by Divine Permission Archbishop of *Canterbury*, P. of A. E. Legate of the Apostolical See, to our venerable Brother the Lord *Michael*, by the Grace of God Bishop of *London*, Health, and brotherly Charity in the Lord. Catholicks are injoin'd by wholefom Precepts supported by divine Institution to pray for one another, that so all of them may be sav'd, and receive a Reward so much the greater, as their Prayers were more importunate: And not only the necessity of him that prays, but publick Utility, and fraternal Charity recommend this duty to us. Whereas the most excellent Prince, our Lord the King of *England*

MCCCLIX. *Islep's Constit.*

is now going to make an Expedition in foreign Parts with his Army for the recovery of his Right, exposing himself as a Soldier to the doubtful Events of War, the issue whereof is in the Hand of God; we who have hitherto liv'd under his Protection, are by the Divine Favour shining on us admonish'd to betake our selves to Prayer, as well for the safety of every one of us as for the publick good, lest if adverse Fortune should invade us (which God forbid) our Confusion, and Reproach should be the greater. But tho' it is provided by Sanctions of Law and Canon, that all *Lord's-days* be venerably observ'd from Eve to Eve, so that neither Markets, Negotiations, or Courts Publick or Private, Ecclesiastical or Secular be kept, or any Country Work done on these Days, that so every faithful Man remembring his Creation may then at least go to his Parish Church, ask pardon for his Offences, supply his Omissions and Commissions for the whole Week, honour the Divine Mysteries, learn and keep the Commandments of the Church there expounded, and earnestly pour out Prayers to God in the Churches that are consecrated from above for places of Prayer, not only for themselves, but for every degree of Men, whether of the Secular, or Ecclesiastical Host, laying aside all worldly Care: Yet we are clearly to our great Hearts Grief, inform'd that a detestable, nay damnable Perverseness has prevail'd; insomuch that in many places Markets not only for Victuals, but other Negotiations (which can scarce be without Frauds and Deceits) unlawful Meetings of Men who neglect their Churches, various Tumults, and other occasions of Evil are committed, Revels, and Drunkenness and many other dishonest Doings are practis'd, from whence Quarrels and Scolds, Threats and Blows, and sometimes Murder proceeds, on the
Lord's-

Islep's *Constit.* MCCCCLIX.

Lord's-days, in contempt of the Honour of God; insomuch that the main body of the People flock to these Markets, by which the Devil's Power is increas'd; and in the Holy Churches (where the God of Peace is to be sought, and his Anger more easily pacify'd) the worship of God and the Saints ceaseth by reason of the absence of the faithful People, the sacred Mysteries are not had in due Veneration, and the mutual support of Men in praying is withdrawn, to the great decay of Reverence toward God and the Church, the grievous peril of Souls and to the manifest Scandal and Contempt of Christianity: Wherefore we strictly command you, our Brother, that ye without delay canonically admonish, and effectually persuade in virtue of Obedience, or cause to be admonish'd and persuaded those of your Subjects whom ye find culpable in the Premises, that they do wholly abstain from Markets, Courts, and the other unlawful Practices above describ'd on the *Lord's-days* for the future; and that such of them as are come to Years of Discretion do go to their Parish Churches to do, hear, and receive what the duty of the Day requires of them: And that ye restrain all whatsoever that transgress and rebel in this respect, both in general and particular with Church Censures according to the Canon. And do ye farther injoin your Flock subject to you, and cause them to be injoin'd, that on the said Days, and at other times when they think fit, they do^d in their

^d We are inform'd that during the Reign of this King, Writs call'd, *de orando pro Rege & Regno* were issu'd at the beginning of the Parliaments: Here we may see how these Prayers were perform'd, viz. by leaving it to every Man's private Devotions in the Church, not by drawing or injoining any new Forms. The most that was requir'd of the Priests was to add *pro Rege, & Regno* in the Canon of the Mass; or if *pro Rege* was used here of course (which is not certain) to add only the word *Regno*.

MCCCLIX. *Islep's Conſtit.*

Prayers at Church moſt devoutly recommend our Lord the King, the Noblemen of the Kingdom, and all others whatſoever that attend him in the ſaid Expedition, and their Safety and Proſperity to the Lord Moſt High, the King of all Kings; and make two cuſtomary Proceſſions about their Churches, and Church-yards every Week for them, and for the Peace of the Kingdom. And we farther command you, that ye intimate this our Mandate with all poſſible ſpeed to our Fellow-Biſhops and Suffragans of the Province of *Canterbury*, that they may do what is above contain'd in relation to their Subjects. And that the Minds of the Faithful may the more eaſily be incited to the doing of the Premiſſes, conſidering in the Mercies of God, and in the ^e Merits and Prayers of his moſt holy Mother the Virgin *Mary*, and of bleſſed *Thomas* the glorious Martyr, and of the other Saints, we grant by theſe Preſents forty Days ^f Indulgence to all Chriſtians throughout our Province, who ſhall pray in the manner aforeſaid, and abſtain from the unlawful Practices above expreſs'd; ſo that they confeſs their Sins, and truly repent of them. And we do in the Lord exhort you, and the reſt of our Fellow-Biſhops, that ye grant Indulgences out of the Treſure of the Church entrusted with you to them that do, and obſerve what is above ſpecified. And do ye before the Feaſt of *All Saints* next coming certify us by your Letters Patents

^e The Mercies of God, and the Merits of the Saints are too diſproportionable to be put as they here are upon the ſame level: And the Bleſſed Virgin is here unequally yok'd with *Thomas Becket*.

^f Take nothing, and hold it faſt. He that has indeed repented of his Sins may be ſure of the Divine Indulgence; he that has not by Father *Simon's tacit confeſſion*, could be never the better for this Archiepiſcopal Bounty.

(containing

Islep's *Constit.* MCCCLXII.

(containing a Copy of these) of the Day when ye receiv'd these Presents, and the manner and form of your executing therof; and do ye specially in-join our said Brethren, that they do every one in particular take care to certify us of what they have done in like manner. Dated at *Otteford* 19 Kal. of *September*, A. D. 1359. and of our Consecration the Tenth.

A. D. MCCCLXII.

Archbishop Islep's Constitutions.

Sir H. S. vol. 2. p. 610.

1. **T**HE Constitutions of the Lord *Simon Islep* Archbishop of *Canterbury*, publish'd A. D. *Lat.* 1362, *Edward III.* being King of *England*, *Urban V.* Pontiff.

§ *Simon* by Divine Permission Archbishop of *Canterbury*, P. of A. E. Legate of the Apostolical See, to our venerable Brother the Lord *Simon*, by the Grace of God Bishop of *London*; Health and Brotherly Charity in the Lord. The unbridled Covetousness of Men would grow to such an height as to banish Charity out of the World, if it were not repress'd by Justice. We are certainly inform'd by common Fame and Experience, that Modern Priests, thro' Covetousness and love of Ease, not content with reasonable Salaries demand

§ *Sir H. S. p. 610, and 611.* has two Copies of this Constitution, which differ very little from each other, saving that the first of them is directed to the Bishop of *London*, and bears date 6. Id. *November*, the other is directed to no particular Bishop, but bears date as the *Oxford* Copy does, 16 Kal. *December*.

MCCCLXII. *Islep's Constit.*

excessive Pay for their Labour, and receive it; and do so despise Labour and study Pleasure, that they wholly refuse, as Parish * Priests to serve in Churches or Chapels, or to attend the Cure of Souls, tho' fitting Salaries are offer'd them, that they may live in a leisurely Manner by celebrating ^h Annals for the Quick and Dead; and so Parish Churches and Chapels remain unofficiated, destitute of Parochial Chaplains, and even proper Curates, to the grievous danger of Souls; and the said Priests pamper'd with excessive Salaries, discharge their Intemperance in Vomit and Lust, grow wild, and drown themselves in the Abyss of Vice, to the great scandal of Ecclesiasticks, and the evil Example of Laymenⁱ: [We therefore desiring a quick cure of this Plague, do with the Advice and Consent of our Brethren, enact and ordain, that all unbenefic'd Chaplains, especially such as are qualified for Parochial Churches and Chapels, and the Cure of Souls, be bound to officiate and attend them at the moderate Salaries mention'd below, postponing all private and peculiar Services of any Persons ^k whatever, when requir'd by the Diocesan or any ordinary Judge, competent in this respect]: And if they neglect to comply for twenty Days, let them know, unless ther be a lawful Impediment, that they are therby to incur suspension from Office. And we enact and ordain, that Chaplains, and they who celebrate Annals, and all who do not attend the Cure

* See *Corb.* 5. 1127.

^h Daily Masses said for a Year together for some certain Persons, or a Family; Bishop *Grosbead* calls them *annualia*. *Fasc. Rer.* p. 411.

ⁱ *L.* has only so much of this Constitution as is inclosed in *Hook's*.

^k Yet *L.* here undertakes to prove, that the Priest could not be oblig'd to desert any temporary Service in which

Islep's *Constit.* MCCCLXII.

which he was engag'd, unless he could have better, or at least equal pay. He undertakes to prove it from the Text of the Canon Law, which he supposes to be of greater Authority than Provincial Councils; and tho' the places to which he refers do not prove what he intends; yet we are not to wonder if his Opinion prevail'd. For it is contrary to common Justice to force Men to take Places of less value in lieu of those that are of better, unless the Person so treated be a Criminal: Whereas in this case Merit was the occasion of their Suffering: For such as deserv'd cure of Souls were the Men against whom this Constitution was particularly aim'd. *L.* supposes that some of these Mass-Priests had ten Mark *per Annum* by the Will, or Statute of the Founder. Nay in the Year 1375. ten Marks were not thought sufficient, but five Marks and a half were added to it.

Cure of Souls, be content with five Marks; but such as officiate in Parish Churches and Chapels, and the Cure of Souls therunto belonging, with six Marks for their Annual Stipends; unless the Diocesans, in regard to the largeness of the Parish, or for some lawful Cause, do otherwise in their Discretion determine. And if any Priest of our Province, under any colour whatsoever, receive more by the Year, or in proportion for any part of the Year, let him *ipso facto* incur the Sentence of suspension from his Office; unless within a Month, he pay what he receiv'd over and above that Sum, to the Fabrick of the Church in which he celebrated. And let him who pays it, if he be an Ecclesiastical Person, forfeit the Doubles of what he so paid over and above, to be converted to pious Uses at the discretion of the Diocesan. And that the Priests may be abridg'd of their Opportunities of wandring, and that their Lives and Manners may more certainly be known, we will and ordain, that no Priest, who removes from one Diocese to another, be receiv'd, unless he shew commendatory Letters from the Bishop of the

F f 3

Diocese

MCCCLXII. Illep's *Constit.*

Diocese where he last dwelt, to the Diocesan of the Place, into which he is now come. But we do especially reserve to ourself and our Brethren the Diocesans of Places, the Absolution of those who have incur'd the said Sentences of Suspension, which¹ [Sentences] we declare (for the sake of simple Men, and such as are ignorant of the Law) by these Presents to be binding, according to the exigency of the Canons, from the time of the Publication of the Premises. We commit and firmly enjoin the speedy Publication of all and singular the Premises, and the execution thereof within your Diocese to you our Brother. And do ye take care to certify us what you have done in this respect by your Letters Patents (containing a Copy of these Presents) before the Feast of the Purification of the B. V. *Mary* next coming. Dated at *Lambeth*, 16 Kal. of *December*, A. D. 1362, and of our Consecration the thirteenth.

¹ The *Oxford* Copy, and the last of Sir *H. S.* has *quor*, as if it related to the Men foregoing; but the first has *quas*, which clearly determines it to the Sentences, and renders the Clause intelligible.

Here follows in the Oxford Copy, another Edition of the same Constitution. It seems to me, that the Archbishop found the former ineffectual, by reason of its attempting to pin them down to so short an Allowance, and it's obliging them to leave a better Salary for a worse; therefore in this he allows a greater Latitude. This is without Date or Inscription.

2. The unbridled Covetousness, &c. to experience as above. The Priests that now are, not considering, that they have escap'd the danger of the Pestilence by Divine Providence, not for their own

* This Pestilence was so great, A. D. 1348, and 49, that

Islep's *Conffit.* MCCCLXII.

that 50,000 are said to have been buried in the *Charreux* Church-yard only; and it seems the numbers of the Clergy were not yet recruited.

own Merits, but that they might exercise the Ministry committed to them, for the sake of God's People and the publick Utility, nor asham'd that Lay-workmen make their Covetousness an Example to themselves, have no regard to the Cure of Souls, which ought by Ecclesiasticks to be prefer'd before all other Concerns; nay leaving that, they betake themselves to the Celebration of Annals and other pecuniary Services, and renewing their old Affectations of living freely, demand more excessive Salaries for small pains, than Curates have; so that by means of the multitude of Annals, and the unlimited largeness of the Stipends for them, many Churches, ^a Prebends, and Chapels of our and your Diocese, and of the whole Province, will be destitute of Priests to serve them; and to the increase of our grief, Priests abandoning their Cures, will betake themselves for lucre sake to such Services. Desiring therefore to restrain the insatiable desire of Priests, and to put a stop to the Dangers and Charges, which our farther connivance might occasion, we require and exhort you, our Brother, in the Bowels of *Jesus Christ*, that ye taking the danger of Souls and the foremention'd Causes into your consideration, do before all other Things, make provision for the Cure of every Parish Church, Prebend and Chapel, with Cure of Souls, by the best qualified Chaplains, in whatever Service they be engag'd, except that of a Curate; and that ye restrain the disobedient, and their

^a By *Prebends* here seem to be meant such Churches as had all their Tithes and Profits impropriated for the maintenance of some Ecclesiastical Officer in a Cathedral or Collegiate Church, he paying some sorry Stipend to a Priest for the service of the Cure.

MCCCLXII. *Illep's Constit.*

Fautors, or those who infringe this our Ordinance; and even the ° Canons themselves, and all others whomsoever, celebrating howsoever, or wheresoever within your Diocese, by all manner of Canonical Censures, so as to make them content with a moderate Salary. And if any one rebelling against us think fit to remove into our Diocese or any other, we will and command that care be taken to have his Name and Sirname intimated to us, or to that Brother of ours, into whose Diocese he goes, by Letters containing the whole Process therupon made. For we will continue the Process against such as come into our Diocese, according to the beginnings made by you, or any other of our Brethren, and execute the Sentences pass'd upon them to our Power. And we require and command, that the like be done every Year by our Brethren in their Dioceses, in all respects. And that the proportion of the Salary may be known to you, we will, that the Chaplain of a Church, Chapel, or Prebend with Cure in your Diocese be content with one Mark of Silver over and above the Salary that us'd to be paid to him that minister'd in the same Cure. And we will, that the Salary of any other Stipendiary Priest be limited to the common Taxation in former times.

° This seems to intimate, that some Canons turn'd Mass-Priests or serv'd Cures. It was great pity they were not confin'd to serve the Cure of their own Prebendal Churches, if any such belong'd to them.

3. *Simon* by Divine Permission Archbishop of *Canterbury*, P. of A. E. Legate of the Apostolical See to our venerable Brother *Simon* by the Grace of God Bishop of *London*, Health, and brotherly Charity in the Lord. We learn from Holy Scripture, that Vice often appears under the colour of
Virtue.

Islep's *Constit.* MCCCCLXII.

Virtue. At the first Creation of Man God injoin'd him to cease from Labour on the seventh Day only; but the militant Church in the times of Grace has added several other Days; and some of these again by the Toleration of the Church were taken away for the conveniency of Men, and the Necessity of their labouring; and yet some local Festivals were added to be observ'd by Catholicks in some Parts; and tho' the custom of Festivals was introduc'd in honour to the Saints; yet by the Levity of Men what was instituted out of a reverent regard to the Elect of God has been turn'd to their Reproach; by reason that disorderly Meetings, and Negotiations, and other unlawful Exercises are practis'd on such Days, and what was intended for Devotion is converted to Lewdness, forasmuch as the Tavern on these Days is more frequented than the Church, and ther is greater abundance of Junkets and Drunkenness, than of Tears and Prayers; and Men spend their leisure in Debauchery and Quarrels, more than in Devotion; not to omit that Covenant Servants (without whose Labour the Commonwealth cannot subsist) under a lawful pretence, do abstain from Work on Holidays (tho' of their own making) and on the Vigils of Saints, and yet take no less on that account for their weekly wages, by which the publick Good is clogg'd and obstructed: Nor do they sabbatize in honour to God, but to the scandal of him and Holy Church; as if these Solemnities were intended for the exercise of Profaneness and Mischief, which increase in proportion to the number of [these Days]. To prevent Superstitions, evil Inventions, and Frauds of Covenant Servants, and to lessen the occasion of them, and that the Memories of the Saints which require a Cessation from Labour may be had in due Veneration, according to the original Institution

MCCCLXII. *Islep's Constit.*

Institution of the Church, with the Advice of our Brethren, we have thought fit to set down in these Presents the Feasts on which all People in our Province of *Canterbury* must regularly abstain even from such Works as are profitable to the Commonwealth; reserving a Power to Ecclesiastical Men, and to other great Persons, and such as are [in this respect] Self-sufficient, of solemnly observing the Days of whatever Saints they please to the honour of God in their own Churches and Chapels. ¶ In the first place the Holy *Lord's-day*, beginning at Vespers on the *Sabbath-day*, not before, lest we shou'd seem profest *Jews*: And let this be observ'd in Feasts that have their Vigils; also the Feasts of the *Nativity* of the Lord, Saints *Stephen, John, Innocents, Thomas the Martyr, Circumcision, Epiphany* of the Lord, *Purification* of the *B. V. St. Matthias* Apostle, *Annunciation*

¶ Because this Archbishop makes an appearance of greatly retrenching the number of Holidays, I thought fit to compare his List with the two largest, which I think are to be found in Sir *H. S.* the first is that of *Walter Cantelupe*, of and for the Diocese of *Worcester*, *A. D.* 1240. Sir *H. S.* p. 358. In this, the following Festivals are more than in *Islep's* List. *St. Wolstan*, a local Saint, formerly Bishop of this See. *St. Paul's* Conversion. The Chair of *St. Peter*. The Deposition that is the Death of *St. Oswald*, another Bishop of this See. *St. Peter ad vincula*. *St. Martin* Bishop. But then this List has only two Holidays in *Easter-Week*, and two in *Whitsun-Week*; and there is no mention of *Preparation* or *Good-Friday*: But then here are seven Holidays mention'd over and above, in which all Labour was to cease save that of the Plough, viz. *St. Vincent*, *St. John Port Lat.* *St. Barnabas*, *St. Leonard*, *St. Clement* Pope, Translation of *St. Oswald*, *St. Catharine*. And farther, ther were four in which Womens Work only was forbid, viz. *St. Agnes*, *St. Margaret*, *St. Lucia* *St. Agatha*. The other List is that of *Peter Quevil* Bishop of *Excester*, *A. D.* 1287. In this List, the Feasts
over

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over and above those mention'd by *Islep*, are, The Conversion of *St. Paul*, *St. Peter's Chair*, *St. Gregory*, *George*, *John Port Lat.* *St. Augustin* the *Engliſh Apoſtle*, *St. Peter ad vincula*, Decollation of *John Baptiſt*, *St. Martin*, *St. Catharine*. *Eaſter* and *Whiſuntide* have here four Days assign'd for Feaſts, but perhaps the Sundays might be included. It is obſervable, that the preſent Archbiſhop had receiv'd a Bull from Pope *Innocent VI*, for keeping the Feaſt of *St. Auguſtin* of *Canterbury*, which tho' long before inſtituted, was ſcarce at all obſerv'd: And he directs it to be kept as a double Feaſt, by ceaſing from ſuch Labours, as Cuſtom forbad on double Feaſts: Yet it is clear, that our Archbiſhop had no ſuch regard to the Pope's Bull, which he receiv'd eight Year before he made this Conſtitution, as to make *St. Auguſtin's Day* an Holy-day of obligation, or of ceſſation from Labour. And it ſeems clear, that the Pope did not underſtand the Cuſtoms of *England*; for Feaſts here were not obſerv'd by ceſſation from Labour on account of their being double, but at the diſcretion of our Archbiſhops and Synods. Archbiſhop *Islep*, indeed, inſerted into the Liſt all the principal double Feaſts, as the *Nativity* and *Epiphany*, *Ascenſion*, as likewiſe the *Aſſumption* of the *Virgin*, of the *Saint* of the *Church*, and the *Dedication* of the *Church*. *Eaſter-day*, and *Pentecoſt-day*, are not enjoin'd by Archbiſhop *Islep* as principal double Feaſts, but as Lord's-days. The greater double Feaſts which then were, are alſo contain'd in this Liſt, viz. *Purification*, *Corpus Chriſti*, *Nativity* of the *B. V.* and *All Saints*; but the Feaſt of the *H. Trinity* is comprehended under the general Head of Lord's-days, and the ſame may be ſaid of the Feaſt of the *H. Relicks*, which was of old kept on the Octaves of the *Nativity* of the *B. V.* but had afterwards been remov'd to the Sunday after the Tranſlation of the new Martyr *Thomas Becket*, (which was July 7.) theſe were greater double Feaſts, as alſo were afterwar'd that of the *Viſitation*, and of the Name of *Jeſus*. But then Archbiſhop *Islep* leaves out one of the leſſer double Feaſts, viz. The *Tranſfiguration* of our Lord; and many of the inferior double Feaſts, as *Saints Gregory*, *Ambroſe*, *George*, 2 *Auguſtins*, *Hierom*, and the *Tranſlation* of *St. Edward*; and takes in ſeveral ſimple Feaſts, viz. *St. Nicolas*, *St. Mary Magdalen*, and *St. Laurence*. The Monks of *Weſtmiſter* two Years before the date of this Conſtitution had exhibited

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hibited Pope *Innocent* the Fourth's Bull for the solemn Observation of King and St. *Edward* the Confessor to this Archbishop, and the Archbishop caused this Bull to be copied out and sent to all the Prelates of his Province, and grants an Indulgence of forty Days to all that would observe it; but he did not think fit to make it an Holy-day of Obligation: Nay this seems to have been but a simple Feast: For the Translation of *Edward* King and Martyr mention'd among the inferior double Feasts is meant of *Edward's* Son, and Successor of King *Edgar*. This Archbishop also receiv'd a Bull from *Innocent* the sixth for the universal Celebration of St. *Anstin's* Day which yet he has not here inserted.

nunciation of the Blessed Virgin, [¹ Preparation], Easter with the three following Days, St. *Mark* the Evangelist, the Apostles *Philip* and *Jacob*,² Invention of the Holy Cross, Ascension of the Lord, *Pentecost* with the three following Days, *Corpus Christi*, Nativity of St. *John* Baptist, Apostles *Peter* and *Paul*, Translation of St. *Thomas*, St. *Mary Magdalen*, St. *James* Apostle, Assumption of the Blessed Virgin, ³ St. *Laurence*, St. *Bartholomew*, Nativity of St. *Mary*, Exaltation of the Holy Cross, St. *Matthew*, St. *Michael*, St. *Luke* Evangelist, Apostles *Simon* and *Jude*, All Saints,

¹ *Good-Friday*, but this is only in Sir H. S. p. 610. not 501.

² L. here takes notice of the reason given in a Gloss on *de Consecr. Dist.* 3. c. 19. why a Feast was instituted in honour to the Cross, and not to the As, which yet bore our Saviour's Body as well as the Cross, viz. that on the Cross *Christ* perform'd our Redemption: But it may be answer'd that the As did by its proper Action and Motion contribute to the carrying of our Saviour to the Place where our Redemption was to be perform'd; but the Wood of the Cross could not by any proper Action, or Motion contribute to this great end.

³ I know not how it should come to pass that this *Roman* Deacon has had more honour done him, than any

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any of the Bishops of that See: For his Feast was always solemnly observ'd in this and other Churches, which is more than can be said of his own Bishop *Sixtus*, or *Xystus*, who yet died a Martyr as well as he: Nor did the *English* ever constantly and universally keep the Feast of any the greatest Popes, not even of *Gregory* the Great, by whose means we were converted.

Saints', St. *Andrew*, St. *Nicolas*, Conception of the Blessed Virgin, St. *Thomas* Apostle, the Solemnity of the Dedication of every Parish Church, and of the Saints to whom every Parish Church is dedicated, and [†] other Feasts injoin'd in every Diocese by the Ordinaries of the Places in particular, and of their certain Knowledge. We therefore command you, that ye notify all and singular the Premises to all our Brethren and Suffragans, in-joining every one of them, that they admonish and effectually persuade the Clergy and People subject to them, strictly to observe, and with Honour to venerate the Feasts above rehears'd, as they fall in their Seasons: And let them reverently go to the Parish Churches on those Days, and stay out the conclusion of the Masses and other Divine Offices, praying devoutly and sincerely to God for the Salvation of themselves and the rest of the Faithful both Quick and Dead; that by thus ^u going the Circle of the Solemnities of the Saints, they, and other Catholicks for whom they pray, may deserve the constant Intercession of the Saints, whose Feasts they celebrate, with almighty God. And let our Brethren intimate to their Subjects,

[†] But they must, says *L.* be only such Feasts as have been first authoriz'd by the Pope: And the case is very plain, our very Archbishops in Convocation never presum'd to institute any Holy-day, but only to chuse such as they thought most proper out of the vast number inserted into the *Roman* Kalendar.

^u *Decurrendo Oxford, decorando* Sir *H. S.* p. 610. not in the other Copy 501.

that

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that on the other Feasts of the Saints, they may with impunity proceed in their customary Labours. And if they find any hir'd Labourers, who presume to cease from working on particular Feasts that are not above enjoin'd, in order to defraud those to whose Service they have bound themselves, let them canonically restrain them from such Superstitions, and cause others to restrain them by Ecclesiastical Censures. And we command our Brethren aforesaid, that every one of them do clearly and distinctly certify us by their Letters Patents (containing a Copy of these Presents) what they have done in the Premisses, before the Feast of the Nativity of St. *Mary* the Virgin next coming; and do ye also take care effectually to perform all and singular the Premisses, so far as they concern your Cities and Diocese, and in the same manner to certify it to us. Dated at *Magbfield*, 17 * Kal. *Aug.* A. D. 1362, and of our Consecration the thirteenth.

* Therefore this should in strictness stand before the two preceding Constitutions.

A. D. MCCCLXIII, or *therabouts*. *Archbishop Thorsby's Constitutions.*

Sir H. S. vol. 2. p. 602.

Lat. THE Constitutions of *John Thorsby* Archbishop of *York*.

1. *John* by Divine Permission Archbishop of *York*, Primate of *England*, &c. ⁊ We do the duty of our Office, while we make such wholesome Ordi-

⁊ He is also said to have been Cardinal of St. *Sabine*, but he does not here express this Title.

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ances as may promote the Honour of the Church, and concern the Salvation of Souls, and restrain and suppress the Excesses and Abuses of our Subjects. Desiring therefore to obviate some Errors, and Abuses so far as we can, which we see to grow up in the Church; in the first place, (according to the Example of Christ, who would have his own Church be call'd a House, not of Merchandize, but of Prayer; and not allowing fraudulent Traffick there to be exercis'd, cast the Buyers and Sellers out of the Temple,) we firmly forbid any one to keep a Market in the Churches, the Porches and Cemeteries therunto belonging, or other holy Places of our ² Diocese on the Lord's-day or other Festivals, or to presume to traffick or hold any Secular Pleas therein; and let ther be no Wrestlings, ^a Shootings or Plays, which may be the cause or occasion of Sin, Dissension, Hatred or Fighting therein perform'd: But let every Catholick come thither to pray, and to implore pardon for his Sins.

² By this it should seem that these are only Diocesan Constitutions; yet I chose to insert them, not only because they were drawn by a Primate, and so truly great an one as *Thorsby* was; but because of the Provincial Constitutions therein cited and inserted.

^a For *Cogitationes*, I read *Sagitationes*.

2. Whereas some being turn'd to a reprobate Sense, meet in Churches on the Vigils of Saints, and offend very grievously against God and his Saints, whom they pretend to venerate by minding hurtful Plays and Vanities, and sometimes what is worse; and in the ^b Exequies of the Dead, turn the House of Mourning and Prayer,

^b Exequies were Offices for the Dead, us'd either in the Church or House of the deceas'd, while the Corps was above ground.

into

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into the House of Laughter and Excess, to the great peril of their own Souls, who ought there to attend Divine Offices, or to join in Prayer at the Exequies of the Dead; we strictly forbid any that come to such Vigils and Exequies, especially in Churches, to exercise in any wise such Plays and Uncleanesses, or any other Doings that tend to the bringing Men into Error or Sin; but let every one that comes, endeavour humbly and devoutly to do that for which such Vigils and Exequies were ordain'd. And we strictly enjoin all and singular Rectors, Vicars, and all whatsoever that are possesst of Ecclesiastical Benefices, that they forbid and restrain all such Insolences and Excesses from being committed in their Churches and Church-yards, by the Sentences of Suspension and Excommunication according to the Canons, under the Penalty of twenty Shillings, which we will have the said Rectors, Vicars, and other benefic'd Men to pay to the Fabrick of our Cathedral Church, when, and as often as they do evidently appear to have been guilty of any neglect concerning the Execution of this Constitution in the Premisses, or in any one of them. And let entrance into the Church, whose Honour they attempted to pollute, be wholly forbidden them; and let not the way into ^c that same Church be open to them for the hearing of Divine Offices, and receiving the Sacraments of the Church, till they make satisfaction.

^c Here seems to be a singular Censure meant, *viz.* A Prohibition from entrance into one single Church only, *viz.* that where the Profanation had been committed: Yet in a foregoing Clause of this Constitution, the Transgressors are threaten'd with Suspension [from entrance into Church] an Excommunication.

3. Ther is no need of promulging new Constitutions and Laws, in cases where sufficient Provision

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sion is made by those already publish'd. In looking over the Synodal Statutes promulg'd in the Times of our Predecessors, we found among them a reasonable Provision made by a Constitution, which ^d begins thus: *Also the Stipends of Priests for one Year are to be tax'd at five Marks; yet our will is that in rich Churches a better Provision be made, according to their Value;* as also by the Constitutions of *William la Zouche* our immediate Predecessor, concerning the Salaries of stipendiary Priests, Chaplains to serve the Cure of Souls, to be taken from among other Ministers. [Therefore] we do farther renew those Ordinances and Constitutions, strictly charging that they be inviolably observ'd, and be accounted for the future true Synodal Constitutions, according to their Force, Form and Effect: The Tenour whereof is thus:

^d It begins and ends so too; for the whole Diocesan Constitution of *William Greenfield* Archbishop of York, on this Head, is here transcrib'd. See Sir *H. S.* vol. 2. p. 440.

Here the Constitutions of William la Zouche are inserted at large, as I have before translated, and inserted them according to the order of Time in which they were made, viz. 1347.

4. It is to be known that this Statute was afterwards new modified in another Provincial Council, and so restrain'd, that the Excommunication is not incurr'd, except in certain Cases; for Instance, they who contract when they know a lawful Impediment, are excommunicated, tho' no objection was made at the Publication of the Banns: Also the Contractors, who cause Matrimony to be solemniz'd without Publication of Banns, as likewise the Priest who solemnizes it,

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are

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are excommunicated : Also when the Contractors cause Matrimony to be solemniz'd, tho' an Impediment were objected at the Publication of Banns, are excommunicated, if that Impediment were not first discuss'd : Also they who compel a Chaplain thro' fear to solemnize a clandestine Marriage : Also the Chaplain who solemnizes Matrimony without first publishing Banns on three solemn Days, [if] even afterwards any Impediment appear : And they who contract against the Prohibition of the Church in these Cases, and no others, are excommunicate *ipso facto*.

¶ Whereas we have observ'd that Rectors, Vicars and Priests do admit their Parishioners to confession without exception, or making any distinctions between greater and lesser Crimes ; tho' in some Cases an irregularity is incurr'd, and in other Cases tho' irregularity be not incurr'd, yet the Absolution is specially reserv'd to the Apostolical See ; and sometimes we are allow'd to absolve : We will, (God permitting) make it appear in brief what those greater Crimes are, which we reserve to our selves and our Penitentiary ; that in cases where the Absolution belongs to us we may absolve Penitents ; and that in other cases we may, as we ought, send Men to the Apostolical See for the obtaining Absolution.

1. The first case is, when a Man sins against the Faith. 2. When a Man sins against Nature, and especially with Brutes. 3. Is committing Murder. 4. When a Man sins against God, or by blaspheming publickly any of the Saints. 5. When a Man sins against the Church by violently breaking it, or by violating Ecclesiastical Immunities, or Liberties. 6 By committing Incest. 7. Or notorious Adultery. 8. By bearing False witness, and so committing Perjury. 9. By Simony. 10. Sorcery. 11. Entering into Conspiracy against Prelates.

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Prelates. 12. By causing Conflagrations. 13. By acting contrary to a lawful honest Vow. 14. When Parents overlay their Children. 15. When Men corrupt Nuns. 16. When violent Hands are laid on a Clerk, or any religious Person; or when one who may does not defend them against such Violence; or who detains a Clerk that is his Adversary, and shuts him up in a Prison, or House. 17. When one falsifies the Letters of a great Man, and cherishes or defends such Falsifiers. 18. When one gets, and knowingly uses Letters so falsified by another. 19. When Archdeacons, Deans, ^e Plebanes, Provosts, Chanters and other Clergymen that have Parsonages, and Priests study Law or Physick, unless within two Months space they wholly desist. 20. When one communicates with an excommunicate in the Crime for which he is excommunicated. 21. When one of his own accord, and knowingly communicates in divine Offices with one excommunicated by our Lord the Pope. 22. Laying Taxes and undue Burdens on Churches, Priests, or their Possessions, unless they desist upon admonition. 23. Is the case of publick Usurers, and such as receive Oblations from them, or admit them to Ecclesiastical Burial. 24. Is the case of him who celebrates, or officiates according to his Order to one excommunicated with the greater Excommunication, or when he himself is suspended, or interdicted ^f by Man. 25. When a Clerk sues in the secular Judicature of a Prince in contempt of the Ecclesiastical Judge. 26. When a Clerk is guilty of Bigamy. 27. When one ministers as a Clerk without being ordain'd. 28. When a Clerk takes Or-

^e Plebans are the same with Deans Rural, only some say that they were perpetual.

^f That is not only by Law or Canon, but by Sentence actually past against himself in particular.

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ders & *per saltum*. 29. Or by Stealth. 30. Or when one causes himself to be ordain'd a second time to the same Order. 31. Or to be baptized again. 32. When one adheres to Heretics to the subversion of the Faith, and in contempt of the Church causes himself to be baptiz'd, or ordain'd by them. 33. When one is ordain'd out of the *Ember-days*, or otherwise in an unlawful manner, and ministers before he has obtain'd a Dispensation. 34. When one is suspended from divine Offices by the Canon, and celebrates divine Offices while so suspended: In which case the Pope reserves the Dispensation to himself by the Canon, ^h in the second Book of the *Liber Sextus cum aeterni*, and in case of the Canon which begins *cum Medicinalis*, both which belong to the Council of *Lyons*. 35. When one takes Orders under a Sentence of Excommunication. 36. Is when Men carry away, consume, or lay Hands injuriously on any thing belonging to the Houses, Manors, Granges, or other places of Archbishops, Bishops, or other Ecclesiastical Persons contrary to the Wills of them or their Stewards. 37. The last is, when Men commit enormous Crimes by which the whole City, Town,

^g *Verbi gratiâ*, he that took the Order of Deacon without being first Subdeacon.

^h I read *de Sententiâ*, 2 viz. *Libro sexti, qui incipit Cum aeterni*, instead of these Words, *qui incipit de sen*, & 2 videlicet *Libro sexto cum & enim*, and accordingly, *Libro secundo Sexti Tit. 14. de Sententiâ c. 1.* You have the Constitution of the Council of *Lyons*, A. D. 1245, which reserves to the Pope the Absolution of Ecclesiastical Judges, who have officiated during their Suspension from their Office. The other you have *Libro 5to sexti. Tit. 11. c. 1.* which also reserves to the Pope the Absolution of the Ecclesiastical Judge, who being suspended for passing Sentence otherwise than *è Scriptis*, officiated during his Suspension: And this is also a Constitution of the same Council of *Lyons*.

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Vill or Country is in a Commotion, and for which publick Penance is to be injoin'd. In these and other Crimes which are esteem'd of the greater sort, we will that the Offender be sent to us, or our Penitentiary, unless ther be peril of Death. We charge that Letters be given to the Penitent without Cost, and that it may certainly appear what the Penance is and for what Crime injoin'd, let the Penitent carry back Letters from the Penitentiary to him that sent him: And he is to make no abatement of the Penance, nor to convert it into a pecuniary Penance, if (perchance) it be corporal, nor let him presume to make any other Commutation under pain of Suspension from Office, which Penalty let him that does otherwise incur *ipso facto*, till he deserves our pardon.

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Archbishop Langham's Constitutions.

Sir H. S. vol. 2. p. 133.

THE Constitutions of *Simon Langham*, who was consecrated Archbishop of *Canterbury* in the Year 1366; and after he had been made Cardinal, died 1368.

1. We have thought fit by the approbation of this present Council to explain the Statute of our Predecessor *Robert* of happy Memory concerning Mortuaries, which some have perverted to a wrong Sense. Our said Predecessor was very diligent

Lat.

ⁱ He means *Robert Winchelsey* See his Constitution No 3. A. D. 1305. Some have ascribed these Decrees of *Simon Langham* to *Stephen Langton*, and they have his Name prefix'd to them in the *Oxford* Copy. But it is

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evident they must have been by an Archbishop who succeeded *Winchelsey*, therefore not by *Langton*, and *L.* expressly attributes this Decree to *Langham*.

ligent in consulting the Salvation of Souls; because he consider'd that the Laity of both Sexes who was subject to him, had grievously offended by unjustly detaining their Tithes and Oblations, sometimes thro' ignorance, sometimes thro' negligence; and he prudently considering that the Sin is not forgiven till what has been taken away be restor'd, did wholsomly ordain, that as a compensation for Tithes so withdrawn, the second best Animal of the deceased should be paid to the injur'd Church, altho' he have not inserted the reason into the Statute. But now because thro' occasion of this Statute, disputes, which we desire to extinguish, often arise between Rectors of Churches and their Parishioners, we think fit to explain it by a ^k Synodal Interpretation, *viz.* That if the deceased had three Animals, or more of any sort among his Chattels, the best being reserv'd to the Lord to whom it is due, the next best be reserv'd for the Church (from which he receiv'd the Sacraments while he was alive) without any fraud, deceit or contradiction whatsoever, as a recompence for the withdrawing his Tithes, as well Personal as Predial; as also of his Oblations for the delivery of his own Soul. But if ther were but two Animals among the Chattels of the deceased, the Church in mercy remits all Actions on account of a Mortuary. But we have thought fit farther to ordain this, that if a ^l Wife die while her Husband

^k Here *L.* declares his Opinion that this was a Diocesan Constitution. He owns that *Synod* may signify a Provincial Convocation: But he did not like the Constitution, and therefore disputes its Authority.

^l *L.* will not allow this to be agreeable to Right and Law;

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Law; for he supposes that the Wife as well as Husband may be guilty of substracting Tithes; and then he blames the Constitution for allowing so long a time as a whole Year for the Wife to be excus'd from paying a Mortuary. He says in this respect the Mortuary and Heriot are put on the same foot, for which ther is no reason.

band lives, she be not forc'd to the payment of a Mortuary: But if she survives her Husband one Year, and as his Widow continues to govern the Family, let her be oblig'd to a Mortuary according to the Form above written. But our will is not to create any prejudice by this our Constitution, or interpretation to the laudable Custom concerning Mortuaries, which hath hitherto prevail'd in our own^m Province; but that whether the deceased had, or had not the number of three Animals, or whether the Husband or Wife die first, the Custom of the Church be observ'd as to the payment of the Mortuary. And we will, that all who rebelliously contradict the payment of

^m *In our own Diocese* say the other Copies; and supposing the Constitution to have been Provincial, it was reasonable to make a saving for the particular Custom of his own Diocese, (which was it seems more favourable to the Church in point of paying Mortuaries) than to make a saving for his own Province, or for many Places in it, when he was making Provision for his own Diocese only. But *L's* Authority is great, therefore I do not alter his Text. And at the words *laudable Custom*, he says, the *Venetians* Custom is, that the Church hath a tenth part of the deceased's Goods, in *Britain* the Church hath a third part. Sure the Church never had a third part, and a mortuary too, however not in *England*. Ther are, if I remember right, some Intimations that the Church of old claim'd a third, but this was before Mortuaries. And I should rather think that this Mortuary was intended as a Composition for that third, than a Satisfaction for Tithes unwillingly substracted, which is Archbishop *Langham's* Supposition, but of which Archbishop *Winchelsey* knew nothing.

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the Mortuary that is due by Law or Custom, be forced ^a by the Ordinaries of the Places with Ecclesiastical Censures.

^a He would scarce have used this Style, if he had intended this Constitution for his own Diocese only.

2. Approving and promoting what was set on foot with a ^o regard to the common Health of Bodies and Souls, that is the Prohibition of Scot-ales and other drinking Bouts. We charge Rectors, Vicars, and other Parish Chaplains, firmly injoining them by the obedience which they owe us, that they by frequent Exhortation earnestly persuade their Parishioners, that they do not rashly violate this Prohibition; or else that they denounce such as they find culpable in this respect, suspended from entrance into the Church, and from participation of the Sacrament, till setting aside other Penalties, they go to our Penitentiary, humbly to receive whatever he shall injoin as a Penance for such Transgression P. — When a multitude of Men exceeding ten in number, stay long together in the same House for drinking Sake, we declare these to be common drinking Bouts. But we mean not to comprehend Travellers and Strangers, and such as meet (tho' in Taverns) at Fairs and Markets, under this Prohibition. Detesting those common drinking Bouts, which by a change of Name they call *Charity Scot-ales*, we charge that the Authors of such drinking Bouts, and they who publickly meet at them, be publickly, solemnly denounc'd excom-

^o I here follow Sir *H. S.* who has *pro communi*, not *convivii pro* as in the *Oxford*.

P The words here omitted are *Et prout Deus dederit, imprimatur alias expietur*. Sir *H. S.*—*dederit Deus imprimetur, ac*—Both readings are to me unintelligible. *L.* meddles not with this Constitution.

municate,

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municate, till they have made competent satisfaction for it, and have merited the benefit of Absolution.

3. Let none presume to celebrate Mass twice a Day, unless on the Day of the Nativity or Resurrection of our Lord, or when one has a Corps to bury, and that in his own Church only; and then let not the Celebrator drink the washings of his Fingers and of the Cup. Let the Offender know that he is suspended from his Office; unless perchance he be compelled by necessity, which we think fit thus to explain and limit, *viz.* If Espousals are to be made on a Festival that has nine Lessons, or in the Lent, or in the Ember-days; on the Account of the sudden illness of a Fellow-Priest, or of his manifest absence in the Business of the Church, or upon his own necessary Occasions.

Here

¶ See Constitution 6. of *Stephen Langton*, 1222.

¶ Mass was to be said at the publick Espousals, and Espousals was a distinct Office from the Solemnization of Marriage: The first might be perform'd in *Lent*, but not the second.

¶ Feasts with nine Lessons were these following, as I have them from a Kalendar in a printed *Portiforium* according to the use of *Sarum*, *Circumcision*, *Epiphany*, Saints *Wolstan*, *Fabian*, and *Sebastian*, *Agnes*, *Vincens* in *January*. *Purification*, *St. Agatha*, the Chair of *S. Peter*, *St. Matthias* in *February*. Saints *David*, *Chad*, *Gregory*, *Edward*, *Cuthbert*, *Benedict*, the *Annunciation* in *March*. *Richard*, *Ambrose* in *April*. Saints *Philip* and *Jacob*, *Dunstan*, *Augustin* Archbishop of *Canterbury*, in *May*. Translation of *St. Edmund*, *St. Barnabas*, Translation of *St. Richard*, Translation of *St. Edward*, *St. Alban*, Apostles *Peter* and *Paul*, Commemoration of *St. Paul* in *June*. Translations of *St. Martin*, and of *St. Benedict*, and of *St. Swithin*, and of *St. Osmund*, Saints *Margaret*, *Mary Magdalen*, *Anne* in *July*. The Invention of *St. Stephen*, Name of *Jesus*, Saints *Laurence*, *Bartholomew*, *Augustin* of *Hippo*, Decollation of *John Baptist* in *August*. *St. Giles*,

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Giles, Translation of *St. Cuthbert*, *St. Edisba*, *St. Marrice*, *St. Hierom* in September. *Saints Remigius*, *Dionysius*, *Wulfran*, *Michael* in monte *Tumb*. Translation of *St. Esbeldred*, *Saints Fredefswide*, *Crispin*, and Translation of *John of Beverly* in October. *All Saints*, *All Souls*, *Saints Winefred*, *Leonard*, *Martin*, *Machute*, *Edmund* Archbishop, *Hugbe*, *Edmund the King*, *Cecilia*, *Clement* Pope, *Casbarine*, *Andrew* in November. Deposition of *St. Ofmund*, *Nicolas*, Conception of the Blessed Virgin *Mary*, *Saints Lucy*, *Thomas*, *Sylvester* in December.

Here follows in the Oxford Copy, a Constitution bearing the Name of Stephen Langton, it contains in it nothing singular, but only the Cases reserv'd to the Archbishop's own Absolution. It can scarce be genuine, and having nothing in it but what may be seen in other Constitutions I think not fit to translate it.

But I must take notice to my Reader of some miserable Rhymes in Latin to the Honour of St. Catharine, which this Archbishop confirm'd by a formal Rescript, (extant in Sir H. S. p. 617. and transcrib'd from the principal Registry of the See of Canterbury) that is, he declar'd them to be Catholick, and gave leave to such as would rehearse them on St. Catharine's Day, and for this purpose to write them down in their Books. He seems greatly pleas'd with them himself, and would probably have injoin'd the use of them if he had thought that in his Power: But he styles them Hymns which answer'd to our Antheims, and in relation to which all Churches were at liberty to use which they pleas'd; nay Durandus says, that tho' all were oblig'd to sing Psalms and Canticles; yet they were left to their own Discretion, whether they would use any Hymns or not,

A. D. 1376, Archbishop Wittlesey publish'd Pope Gregory XI's Bull for keeping St. Augustine's Day as a double Feast.

A. D.

A. D. MCCCLXXVIII.

Archbishop Sudbury's Constitutions.

Oxford Copy, p. 58.

THE Provincial Constitutions of the venerable Father, the Lord *Simon Sudbury* Archbishop of *Canterbury*, made at *Lambeth A. D.* 1378, in the second Year of King *Richard II.* in the first Year of *Urban V* Pope, and *Clement VII* Antipope; at which time the 27th most grievous Schism arose, which continu'd thirty Years. This most eloquent Man, who was wise incomparably beyond the rest of the Kingdom, fate about six Years, and at last was beheaded at *London* by command of the Rebels *Tyler* and *Straw*, *A. D.* 1381. Lat.

Simon by Divine Permission Archbishop of *Canterbury*, Primate of A. E. Legate of the Apostolical See, to our venerable Brother the Lord *William*, by the Grace of God Bishop of *London*, Health and Brotherly Love in the Lord. The unbridled Covetousness, &c. as in the first Constitution of *Islep* 1362, to the evil Example of Laymen. And tho' the Lord *Simon Islep* of good Memory, formerly Archbishop of *Canterbury* our Predecessor in his Life time, did appoint and ordain with the Advice and Consent of his Brethren, that such Chaplains as celebrate Annals, and others who do not attend the Cure of Souls, should be content with five Marks; but such as officiate in Churches and Parochial Chapels, who have cure of Souls belonging to them, with six Marks for their annual Stipends; and laid upon Priests that disobey'd this Statute, the Punishment of Suspension *ipso facto*: Yet we taking into our consideration the condition of the Times, with the Advice and consent of our Brethren assembled

MCCCLXXVIII. Sudbury's *Const.*

assembled together for this purpose, on the ¹ sixth Day of *November*, in the Year of our Lord underwritten, in a certain Chamber within the Verge of the Monastery of *Peter and Paul* at *Gloucester*, in the Diocese of *Worcester*, do ordain and enact according to the Form underwritten, concerning the Salaries hereafter to be receiv'd by Parish Priests, and for Annals within our said City, Diocese and Province of *Canterbury*.

* Sixteenth Sir *H. S.*

1. In the Name of God. *Amen.* We *Simon*, &c. with the advice of our Brethren, and Suffragans do enact, that whoever are to celebrate Annals within our City, Diocese, and Province of *Canterbury* for the Souls of deceased Persons be content with seven Marks, or with Diet and three Marks; and others who are to serve the Cure of Souls with eight Marks, or Diet and four Marks, so as to receive no more upon Compact in any wise; unless the Bishop of the Place do first decree, that such as serve the Cure of Souls be otherwise dealt with. If any Clergyman presume to act contrary to this our Constitution by either giving or receiving, let him incur the Sentence of Excommunication *ipso facto*; from which he may not be absolv'd by any but the Diocesan of the Place, where he offended. And we will that they who act contrary to this Statute be bound and involv'd in the ^u Sentences therein contain'd so soon as the same hath been publish'd, as the Canon requires. We therefore commit it to you Brother, and command you, and firmly injoin you that ye transmit all and singular the Premises to be publish'd in your City and Diocese with all speed, and to be forthwith put in Execution: And do certify us by your Letters, before the Feast of

^u I read *Sententiis contentis*, not — as.

Easter

Sudbury's *Const.* MCCCCLXXVIII.

Easter next coming, of the Day of your receiving these Presents, and of your executing of them, and of the manner and form therof, and what ye have done in the Premisses: And injoin our said Suffragans that they do every one of them by their Letters (containing a Copy of these Presents) certify us concerning what they have done in this respect before the Feast aforesaid. Dated at *Lambeth* (as to the signing of these Presents) 6 Kal. December, A. D. 1378. of our Consecration the fourth.

2. Let it often [and at large] be inculcated on Laymen at Confessions, and in Sermons, especially in the great Solemnities, that all mixture of Man and Woman is mortal Sin, unless it be excused by Matrimony. And if a Priest be found negligent in denouncing this wholesome Doctrine, * let him be punish'd according to the Canons as one that is a Fornicator, or that allows of Fornication.

* This is indeed the Doctrine of the Canon Law, as *L.* observes, *Dist.* 8. c. 3, 4, 5.

3. Let the Confessions of a Woman be made without the † Vail, and in an open Place, so that she may be seen; tho' not heard [by the People]: And let Laymen be admonish'd to confess at the very beginning of *Lent*, and always presently after a Fall, lest one Sin by it's natural tendency draw the Man to another. ‡ And let no Priest injoin
Masses

‡ *Lent* was the common time of Confession; and during this Season, a Vail was hung before the Chancel, which depriv'd the People of the Sight of what was done ther.

‡ Falting, Prayers and Alms were the most usual Penances, but it had long been the practice of some Priests to injoin the Penitent for some Sins to pay for saying such a number of Masses; but this gave Scandal: For it was suppos'd that the Priest did this, with a design that
he

MCCCLXXVIII. Sudbury's *Const.*

he himself or his Brother Priest might get the Money paid on this Account. *L.* says that it was proper to in-join this Penance to Priests in some Cases.

Masses as the whole, or part of a Penance : Yet he may advise them.

4. Let Confessions be heard thrice in the Year, and let Men be admonish'd to communicate as often, *viz.* at *Easter*, *Pentecost*, and *Christmas*. Yet let them first prepare themselves for it by observing some ^a Abstinence, according as the Priest shall advise. But whoever does not confess to his ^b proper Priest once in the Year at least, and receive the Sacrament of the Eucharist at *Easter* (^c unless he think he ought to abstain, by the advice of the Priest) let him be forbidden entrance into the Church, while he is alive, and be depriv'd of Christian Burial when dead. And let them be often told of this.

^a Some take this Advice, says *L.* and fast all the *Advent* to receive at *Christmas*; all, or part of *Lent* to receive at *Easter*; from *Rogation-Monday* to *Pentecost*, to receive at *Pentecost*. This shews that our Forefathers were no strict observers of *Lent*.

^b Proper Priest, that's the Parish Priest, or the Friar well authoriz'd, *L.*

^c *L.* mentions the Cases in which Men should be advis'd not to receive, *viz.* 1. If they are not dispos'd to leave their Sins. 2. If their Sins are such, that none but a Superior can give Absolution; for they were excus'd from receiving till they had taken this Journey. 3. Infidelity, Indevotion, infirmity of the Body, (so great as made Men incapable of receiving of it) Distraction, Possession by evil Spirits. Farther, he that was under notorious Sin was to be repelled, if he did offer himself to receive; but not if it were private, tho' the Priest himself knew it by confession or otherwise. If the Offender gave the Priest private notice of his Intention to receive, the Priest was to warn him against it; but if the Offender, notwithstanding, thrust himself in among the Communicants, he could not be repelled because of the Scandal. See *L. p.* 223.

A. D.

A. D. MCCCXCI.

PREFACE. *Archbishop Courtney's
Constitutions against Choppe-Churches.*

William Courtney was a very active Archbishop, and he employ'd his Care and Zeal chiefly against the Lollards or Wickliffites: Yet he found time to reinforce, by the Authority of a Convocation, the fifth Constitution of Robert Winchelsey concerning stipendiary Priests. We have his Letter to the Bishop of London, by which he requires him to put it in Execution himself, and to send it to the other Bishops of the Province to do the like; the form differs very little from that used by his Predecessors on the like occasions, save that he gives Commission to all and singular his Brethren to act as his Deputies with the Power of Canonical Coercion in executing of this Constitution; and this had sometimes been done by former Archbishops; that as the Popes had made the Archbishops seem to act with Authority deriv'd from Rome; so every Suffragan Bishop might be thought to derive his Power from Canterbury. This Letter bears date from Croydon 1391. but the Constitution was renew'd in a Convocation holden at London. This Archbishop did likewise make some Regulations for the Court of Arches; and injoin'd the Feast of St. Anne, the supposed Mother of the Virgin Mary to be observ'd throughout the Province, as he was injoin'd by a Bull of Pope Urban the Sixth. See Oxford Copy p. 60. Sir H. S. p. 636. He receiv'd another Bull from the same Pope for observing the Vigil of the Nativity of the Virgin; but the Publication of it is in neither of these Books. The first date 1383, the other is without Date.

A. D.

A. D. MCCCXCI.

*Archbishop Courtney's Constitution
against Choppe-Chapels.*

Sir H. S. vol. 2. p. 641.

THE same Year Archbishop Courtney injoin'd the Bishop of London to publish in the usual Form his Mandate against some vile Clergymen, commonly call'd Choppe-Churches. Ther was, I suppose, no occasion to make any new Constitution in Convocation against these Offenders, for ther were Canons and Laws enough already in force against them: Therefore he sends his Mandatory Letter for putting the Bishops in mind of their Duty, and requiring them to execute their Powers against these soul Practices; and here following we have Robert Braybrook Bishop of London's Certificatory in answer to the Archbishop, containing a Copy of his Mandate.

To the most Reverend Father and Lord in Christ, the Lord *William* by the Grace of God Archbishop of *Canterbury*, Primate of A. E. Legate of the Apostolical See, *Robert* by Divine Permission Bishop of *London*, obedience and reverence, with the honour due to so great a Father. We receiv'd your most reverend Mandate according to the Tenour underwritten.

" *William* by Divine Permission Archbishop of
" *Canterbury*, Primate of A. E. Legate of the
" Apostolical See, to our venerable Brother *Robert*
" by the Grace of God Bishop of *London*,
" Health and Brotherly Charity in the Lord.
" We are bitterly griev'd, when any of the Flock
" under our trutt provokes the most High by his
" Villainies, and strikes himself with a damnable
" Sentence,

Courtney's *Const.* &c. MCCCXCI.

“ Sentence, and rashly throws himself into de-
 “ struction. But Humane Laws and Canonical
 “ Statutes, do among other things abhor Cove-
 “ touness, which is Idolatry, and damn'd Simonia-
 “ cal Ambition. But (alas!) some Mens Minds
 “ now-a-days, are so darken'd and smitten with
 “ outward things, as never to look inward to
 “ themselves, or to him that is invisible, while
 “ they are puffed up with Temporal Honours, still
 “ desiring more, slighting the Ways of God.
 “ Some traffick for the Gifts of the Holy Spirit,
 “ while they pay or make private Simoniack Con-
 “ tracts for Churches and Ecclesiastical Benefices,
 “ forgetting the Words of *Peter* to *Simon*, *Thy*
 “ *Money perish with thee, because;* &c. Others of
 “ these Tare-sowers, perverters of Right, inventors
 “ of Mischief, commonly call'd *Choppe-Churches*,
 “ defraud some by an unequal change of Benefi-
 “ ces thro' their wicked intreagu'ing and execrable
 “ Thirst of Gain; and sometimes wholly deprive
 “ others of the Benefices they have thro' false
 “ Colours; insomuch, that being reduc'd from
 “ an opulent to a poor Condition, and not being
 “ able to dig, they die of Grief, or else are com-
 “ pell'd to beg thro' extreme Poverty, to the
 “ scandal of the Church and Clergy. Others,
 “ tho' *they who serve at the Altar should live by*
 “ *the Altar*, &c. according to the Apostle, pro-
 “ cure Persons to be presented to Churches with
 “ Cure and Ecclesiastical Benefices, by Importu-
 “ nity and Money; and to be instituted therein,
 “ after having first wickedly sworn, that so long
 “ as they have those Benefices they will claim no
 “ Profits from them, nor any way dispose of them,
 “ but leave them to their Direction and Profit,
 “ [who procur'd them] under pretence of an ex-
 “ change, or purely ^d at their Request. By which

^d I read *requisite*.

H h

means

MCCCXCI. Courtney's *Const.*

“ means (whereas one Church ought to belong
“ to one Priest, and no one ought to have several
“ Dignities or Parish-Churches) one Man, insuf-
“ ficient for one Cure tho’ a small one, sweeps
“ to himself by a trick the Profits of many Bene-
“ fices, which if equally distributed, would abun-
“ dantly suffice for many learn’d and very reputa-
“ ble Men who very much want it; divine Wor-
“ ship and Hospitality is neglected; the Indevo-
“ tion of the People toward the Church and
“ them who belong to it is increas’d, and the
“ Cure of Souls is not minded. Such carnal
“ Men despise spiritual Precepts, and affect tem-
“ poral Riches in contempt of eternal Rewards.
“ But it were to be wish’d, that for their own
“ Amendment they would be afraid of Punish-
“ ment, by considering how the Redeemer of
“ Mankind cast the Chapmen out of the Temple,
“ saying, *make not my Father’s House a House of*
“ *Merchandize.* Our Lord never dealt so severely
“ with any Offenders, to demonstrate that other
“ Sinners ought to be reprehended, but these to
“ be driven far from the Church. Farther, some
“ Raptors rather than Rectors of Churches, Shep-
“ herds, who know not and take no care of their
“ Flocks, provoke the divine Indignation, neg-
“ lecting Hospitality without Cause, shamefully
“ spend their Time at *London*, devouring Christ’s
“ Patrimony, living daintily on the Bread of the
“ Hungry, cloathing themselves with the Gar-
“ ments of the naked, and with the Ransome of
“ of Captives: They dare not say with the Pro-
“ phet, *the Lord is the Portion of mine Inheri-*
“ *tance*; but rather, *we desire not the knowledge of*
“ *thy Ways.* Whereas, therefore, the Cure of
“ Souls is our chief concern, of which we are
“ to give a strict Account; and resolving not any
“ longer to connive at so great a scandal of the
“ Clergy

against Choppe-Churches. MCCCXCI.

“ Clergy of the Church of *England*, and so per-
“ lous and pernicious an Example, at the im-
“ portunate request of many we give it in charge,
“ and command you my Brother in virtue of obe-
“ dience, and do will and command that the rest
“ of my Suffragans and Fellow-Bishops of our
“ Province of *Canterbury*, be injoin’d by you to
“ take corporal Oaths of all whatsoever, that are
“ to be presented to Ecclesiastical Benefices, now
“ or hereafter to be void within your Dioceses,
“ that they have not given or promis’d directly or
“ indirectly, by themselves, or by any employ’d
“ by them for the Presentation, to the Presentor
“ or any other Persons whatsoever; and that nei-
“ ther they nor their Friends are oblig’d by Oath
“ or any pecuniary Security, to resign or make
“ exchange of the Benefices; and that no unlaw-
“ ful Compact hath been made in this respect,
“ nor Promise, with their Will or Knowledge:
“ And that in case of exchange no Proxies, tho’
“ sign’d by Notaries, be allow’d, without the
“ presence of the Principals, and a provident
“ Examination of the equality as to the value
“ of the Benefices, and an Oath given by each
“ Party that no Fraud private or publick is us’d
“ in the exchange: And that the Non-residents
“ in your Dioceses be effectually call’d home to
“ do their Duty; and the Simoniackal Possessors,
“ or rather Usurpers of Churches be severely cen-
“ sur’d; and that the accursed Partakers with *Ge-
“ bazi* and *Simon*, the *Choppe-Churches* who chie-
“ fly are at *London*, be in general admonish’d to
“ desist from such Procurings, Changings and
“ Trickings made in their Conventicles and Simo-
“ niackal Assemblies for the future: And let them
“ cassate and cancel all Contracts and Bargains
“ fraudulently made, tho’ confirm’d with Oaths,
“ which in this Case are null; and let all such

MCCCXCI. Courtney's *Const.* &c.

“ Frauds and Simoniack Contracts, which are
 “ not in their Power to break, be discover'd to
 “ the Bishop of the Dioceses in which such Be-
 “ nefices as are concern'd in the Transaction do
 “ lie, that they by whose procurement or consent
 “ these Contracts were made, may be injoin'd Pe-
 “ nance according to their Merits, under pain of
 “ the greater Excommunication after fifteen Days
 “ notice, (five Days being allow'd after each of
 “ the three usual Admonitions) which we pass up-
 “ on them by this Writing ^e from this Time for-
 “ ward, as well as from that Time forward. And
 “ do ye strictly injoin and cause other Bishops to
 “ be so injoin'd, that these wicked Merchants of
 “ the Lord's Inheritance, and such as have several
 “ Dignities, Churches and Choppe-Churches, be
 “ struck with the Sword of Ecclesiastical Censure,
 “ especially such of them as are in Orders, as being
 “ universally abhorr'd by all, lest by the neglect of
 “ you and other Bishops this Clamour be again re-
 “ peated in our Ears. And do ye cause us to be
 “ certified of what you have done in the Premis-
 “ ses before the Feast of St. *Michael* the Arch-

^e *Ex nunc prout ex tunc.* This shews the Nature of
 conditional Excommunication, as still us'd in Ecclesi-
 astical Courts, viz. That it takes effect from the Time
 of it's being decreed in Court, in case the Conditions
 be not submitted to within the Time limited. I mean it
 takes effect in the design of the Canon and the Ecclesi-
 astical Judge, tho' not as to the Temporal Court: And
 so the *ipso facto* Excommunication takes effect as to the
 Intention of the Canon, from the Moment that the Fact is
 committed; tho' it can have no effect as to the Temporal
 Court, till it have been particularly denounc'd against
 the Party. The Man who committed the Fact and knew
 the Canon, was excommunicated in his own Conscience
 from that Moment forward: And this was a Point of
 great Moment, while Excommunication was deem'd a
 real Curse.

“ angel

PREFACE. Arundel's *Constit.* &c.

“ angel next ensuing, by your Letters Patents
“ containing a Copy of these Presents. Dated in
“ our Manor of *Slyndon*, on the fifth Day of
“ *March*, in the Year of our Lord 1391, and of
“ our Translation the eleventh.

By Authority of which reverend Madate we have injoin'd it by our Letters, as the Custom is, to be fully executed as to all and singular its Contents, by all and singular your Suffragans of your Province of *Canterbury* in their Cities and Dioceses, according to the full power, form, and effect of the said Mandate, and have caused the said Mandate, and all and singular the Premisses, so far as we are concern'd to be put in due Execution, and will cause it so to be done to the best of our Power, God permitting. And thus we have duly executed your most reverend Mandate, according to the demand and effect thereof in and thro' all Particulars. Dated in our Manor of *Hadham* on the seventh Day of *September* in the Year of our Lord above-written, and of our Consecration the eleventh.

A. D. MCCCXCVIII.

P R E F A C E. *Archbishop* Arundel's *Constitution in honour to Becket.*

Thomas Arundel *Archbishop* of *Canterbury*, having incurr'd the Displeasure of King Richard the Second, and forced into Banishment for being Accomplise with his Brother the Earl of Arundel, who suffer'd Death as Partisan with the Earl of Derby (afterwards King Henry the Fourth.) Roger Wal-

MCCCXCVIII. Arundel's *Const.*

den is put into the Chair of Canterbury, and acted as Archbishop for two Years or thereabouts. I insert the following Constitution not out of regard to the Man who presided in Convocation at the making of it, but as a Demonstration of the most excessive Bigotry of our ruling Clergy at this time toward Thomas Becket. Walden, tho' he was ambitious of the Archiepiscopal, yet seems to have been a modest Man in this respect, that he does not assume to himself the Style of an Archbishop, or Primate, for thus the Constitution runs.

A. D. MCCCXCVIII.

Archbishop Arundel's Constitution.

Oxford Copy, p. 62.

THE Splendor of the paternal Glory, who illuminates the World with ineffable Brightness does then favour the pious Desires of them that hope in his most clement Majesty, when their humble Devotion is assisted by the Merits and Prayers of the Saints. We desiring to render *Christ's* faithful People, especially such as dwell in our Province of *Canterbury*, more acceptable to God, and followers of good Works, do enact and ordain in the Convocation of the Clergy of the Province of *Canterbury* on the second day of *March* A. D. 1398. celebrated in our Cathedral Church of *St. Paul, London*, with the consent of our Self our Brethren, and Suffragans, and of the Clergy aforesaid, that the Festivals underwritten, that is of *St. David* Bishop and Confessor, whose Body and Relicks are at *Menevia*, on the Kalends of *March*; and *St. Chad*, whose Body and Relicks are
it

Arundel's Const. MCCCXCVIII.

in the Church of *Litchfield*, ^f *St. Wenefred*, Virgin and Martyr, whose Body and Relicks are reposit^d in the Conventual Church of *St. Thomas* the Martyr, without the Walls of the Town of *Sbrewsbury* in the Diocese of *Coventry* and *Litchfield*, and our Province of *Canterbury* on three Non. of *November*, be devoutly celebrated in all times coming every Year, and on the Days before mention^d by the Clergy of our Province in all their Churches with nine & Lessons, and all other things particularly belonging to the Office of the Saints of whom we have spoken; with the common [Office] in places where the proper Service for these Saints is not to be had; and that the Feasts of these Saints on the Days above specify'd, be mark'd and distinguish'd in some Kalendar of every Church of our Province.

^f Here should be added, *on the second of March*. But either this Constitution was very ill drawn, or this is a very imperfect Copy.

^g By what here follows it is evident, that when a Holiday was injoin'd to be kept by a Convocation or Archbishop over the whole Province, or by a Bishop in his Diocese, it does not therefore follow, that the Convocation or Archbishop drew an Office for the Day, and injoin'd the using of it. The Court of *Rome* which had the sole Power of Canonizing Saints, and appointing their Festivals, either drew an Office proper for the Day, which was by degrees dispers'd into all Churches and insert^d into their Books, or else they left the Festival to be kept at large by some common Office. And whoever looks into their Books, will find such common Offices for Saints of all Ranks and Denominations, as in the Cases here mention'd they have *Commune unius Pontificis*, *Commune unius Pontificis & Martyris*, &c. *Commune unius Virginis*, *Commune plurimarum Virginum*. The Constitution speaks of proper Offices for the Saints here mention'd, but suppos^d that all Churches were not furnish'd with them; and till they were, leaves them to be celebrated in those Churches according to the common Forms.

MCCCXCVIII. Arundel's *Const.*

But altho' we ought to extol all and singular that are settled in the Kingdom of Heaven with sonorous Praises, and to honour them with a solicitous Zeal, yet it is fit that with our loudest Voices, and peculiar Praises, and spiritual Honours we should extol, sound forth, and venerate the most glorious Bishop and Martyr St. *Thomas* the Patron of us, and of the Church which is the Head and Mistress of all the Churches of the said Province, who is known to have shed his Blood for the Ecclesiastical Liberty, and by whose Merits and Passion our whole Province of *Canterbury* is made to shine, and the Church universal is decorated. Upon this Consideration, we in the Convocation aforesaid, with the concurrent advice and consent of our Self, and the others before-mention'd, do ordain and enact that a ^h Commemoration of the aforesaid most glorious Martyr St. *Thomas*, be laudably observ'd every where in our Province of *Canterbury* once in every Week, that is on ⁱ *Tuesday*, if it may conveniently be done, otherwise on some day of the Week, if it fit better, in the same order with the ^k Commemoration

^h A Commemoration or Memory, is a collection of some Antiphons, Prayers, &c. to be inserted into the Office of the Day in honour to some Saint of lesser Rank, or whose Day falls on a greater Festival or a solemn Fast; or in honour to some Saint of great Magnitude, on such Days as are not peculiarly set apart in honour to him.

ⁱ In the Office on the Translation-day of this reputed Saint, it is said, that he was born, banish'd, had a revelation from *Christ*, return'd from Banishment, was killed, and had his Translation (that is the removal of his Corps from the Grave to the Shrine) perform'd all on a *Tuesday*.

^k The Feast of the Place, that is the Day on which the Church of each Place was founded, is always to be kept as a principal Double; that is, as a Feast of the very

Arundel's *Const.* &c. MCCCCVIII.

very highest Rank, and the Commemoration was proportionable to the Feast.

memoration of the Feast of the Place, to the Honour and Glory of the Church and the said Martyr.

A. D. MCCCCVIII.

Archbishop Arundel's Constitutions against Lollards.

THE Constitutions of Lord *Thomas Arundel* Archbishop of *Canterbury*, publish'd in a Convocation of the whole Clergy of his Province celebrated at *Oxford*, A. D. 1408. *Henry* the Fourth reigning in *England*, *Gregory* the twelfth, *Alexander* the fifth, and *Benedict* the thirteenth exercising the Papal Jurisdiction all at once.

Thomas by Divine Permission Archbishop of *Canterbury*, Primate of A. E. and Legate of the Apostolical See, to all and singular our venerable Fellow-Bishops, Brethren, and Suffragans, Abbots, and Priors, Deans of Cathedral Churches, Archdeacons, Provosts, and Canons, Rectors, Vicars, and Chaplains of Parish Churches, and all Clerks and Laics whatsoever within our Province of *Canterbury*, Health, and firm adherence to the Doctrine of Holy Mother Church. He does an injury to the most reverend Synod who examines its Determinations: And since he who disputes the supreme earthly Judgment is liable to the Punishment of Sacrilege, as the Authority of Civil Law teaches us; much more grievously are they to be punish'd, and to be cut off as putrid Members from the Church Militant, who leaning to their

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own Wisdom violate, oppose and despise by various Doctrines, Words, and Deeds, the Laws and Canons made by the Key-keeper of eternal Life and Death (the Vicegerent not of an earthly Man, but of the true God, and to whom God himself has given the Rights of a celestial Empire) when they have been publish'd according to Form and Canon, and observ'd by the Holy Fathers our Predecessors, even to the glorious Effusion of their Blood, and¹ dissipating of their Brains. For they ought to consider that in the Old Testament Moses and Aaron were [the first] *amongst the Priests*; and in the New Testament ther was a distinction among the Apostles; and our Lord granted, and the Apostles agreed, that Peter call'd ^m *Cephas*, that is, the Head should be the Prince of the Apostles, as being he to whom it was said, *when thou art converted strengthen thy Brethren*; as if he had said, if ther be any Doubt among them, do thou confirm them in what is good; which our Lord would not have said, if he had not determin'd that others should obey him. But we experience to our Grief, that the old Sophister knowing that sound Doctrine, as determin'd by the Fathers, which keeps the People in the unity of the Faith under one Head, would obstruct his Malice, endeavours to extirpate that Doctrine, and falsly calls Vice Virtue, that by separating Men by degrees from their universal sacred Mother, he may erect to himself a Church of Malignants: He transforms himself into an Angel of Light while he traduces the ancient Doctrine, and would bring in new ones of his own making, which he falsly pretends would be for the better; but he means

¹ Here he evidently alludes to the Murder of *Becket*, whose Brains were dash'd out by the Assassins.

^m Here the Skill in Languages and Logick are both alike.

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nothing but Schism, and the weakening of the Faith (by contrariety of Opinions [taken] from *Jews, Pagans*, and other Infidels, and perverse Men) and the Profanation of Mysteries, by which the Emblem in the Apocalypse is verified, ^a *one sitting on a black Horse held a Balance in his Hand*: By this Hereticks are meant, who allure People to them with an Appearance of what is right and just under the Figure of a Balance, but afterwards comes the Horse with his black Tail scattering poysonous Errors, and publishing Scandals by Persons elected to Evil; who (alas) preach before they are sent, and sow before they have winnow'd their Seed: And by not considering the prohibitive Decrees and Canons against such Sowers, they prefer a diabolical Sacrifice before Obedience to the Church.

^a Revel. vi. 5.

We therefore considering that by not resisting Error we might seem to approve it, and that we should cherish the Viper by not suppressing it, and desiring to shake the Dust off our Feet, and consult the Honour of Holy Mother Church, and sow the one Holy Doctrine in the Church, especially in our Province of *Canterbury*, (so far as we may with God's assistance) to the increase of Faith and Divine Worship, and for the rooting up of
• Tares, and whatever Evils have sprung up by means of perverse Preaching and unsound Doctrine, to obviate all peril of Souls, and removing all Obstacles by which our Province may be embarrass'd, with the advice and consent of our Suffragans, and

• As in this whole declamatory Preface he evidently aim'd at the *Wickliffs*, so more particularly in this place: They were commonly call'd Lollards in allusion to the *Lolium*, or *Zizania* in the Parable, tho' some say from one *Lolhard* a German, who was sometime before *Wicklif*.

other

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other Prelates present in this Convocation of the Clergy, and of the Proxies of those that are absent, and at the instant Petition of the Proctors of the whole Clergy of our Province of *Canterbury*, and for the strengthening of the ^p Common Law made in this behalf, we add the just following Penalties.

^p By the *Common Law* is evidently meant the Statute made to inable Bishops to take up, imprison, degrade, lay Fines on Hereticks, and if they prov'd obstinate, to deliver them up to the secular Magistrate to be burn'd, which was made seven Years before the following Constitutions; so much more forward was the zeal of Parliaments against Heresy in this Age, than that of Convocations.

1. We enact, decree and ordain, that no ^q Secular or Regular, unless authoriz'd by the ^r written Law, or by special Privilege take to himself the Office of Preaching the Word of God, or do in any wise preach to the People or Clergy in *Latin*, or in the Vulgar Tongue, within a Church, or ^f without it, unless he present himself to the Diocesan of the Place, in which he attempts to preach and be examin'd, and then being found qualified both by Manners and Learning, let him be sent by the Diocesan to preach to some certain Parish or Parishes, as to the same Ordinary shall seem expedient, in respect to the Qualifications of the Man. And let none of the aforesaid presume to preach, unless assurance be first given in proper Form of their being sent and authoriz'd; so as that he who is ^t authoriz'd by written Law, do
come

^q Supply Priest; for none but a Priest may preach, except a Deacon be Curate: For then he may preach to his own Subjects. *L.*

^r See Note [^t] below.

^f Friars might preach in Churchyards or Streets. *L.*

^t By the Canon-Law, the Pope is allow'd to preach
every

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every where; the Bishop in his own Diocese, or in any other, where he is not expressly prohibited by the proper Bishop. A Master or Doctor in Divinity, or any Preacher licens'd to any Parish or Parishes, may be admitted to preach by any Curate in *Transitu*. Friars, Preachers and Minors, may preach any where of common right, tho' of old this was a Privilege specially granted by the Pope. L.

come according to the Form therein limited; and that they who say they come by " special Privilege, do really shew that Privilege to the Rector or Vicar of the Place where they preach; and that they who pretend to be sent by the Diocesans of the Places, do shew the Letters of that Diocesan drawn for that Purpose under his Great-Seal. But we take a * perpetual Curate to be sent by Law to the Place and People of his Cure. But if any of the aforesaid be under a Suspension or Prohibition from Preaching pass'd by the Diocesan of the Place or other Superior, for any Errors or Heresies which he is pretended to have formerly preach'd, affirm'd or taught, let him not thenceforth preach any where in our Province, till he has purg'd that defect according to the Determination of him who suspended or prohibited him; and be again restored to preach: To which purpose let him be bound to carry with him the Letters Testimonial of him that restor'd him, and shew them in the Place where he preaches. But let y Parish Priests and Temporary Vicars, (not perpetual)

" These were *Augustinian* and *Carmelite* Friars, who had no Decretal inserted into the *Corp. Jur. Can.* whereby to grant them a general Licence as the Preachers and Minors had.

* That is, the Rector, Vicar, or whoever had a perpetual Title to the Cure of Souls in any Church.

y This wholly sets aside the Authority of *Can. 49.* 1603; for these Canons, and the old Common-Law of the

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the Church here declar'd by *L.* are I conceive of greater Authority than our last Canons, which were never authoriz'd by Parliament, as these old Provincials are, so far as they are not contrary to Prerogative Royal, &c.

perpetual) who are not sent in Form aforesaid, only simply preach those Things which are expressly contain'd in the Provincial Constitution, (together with the usual ^z Prayers) which was well and piously publish'd by ^a *John* of good Memory our Predecessor, as a supply to the Ignorance of Priests, with which Words it begins. And we will that this be had in every Parish-Church of our Province of *Canterbury* within three Months after the Publication of these Presents, and that it be effectually publish'd by those Priests every Year, and every time that [the Constitution] itself requires. And lest this wholesome Statute should seem to mean some evil on account of any pecuniary Exactions, we will and ordain, that the Examination of the Persons aforesaid, and the Letters of the Diocesan to be drawn for them, be sped with all Expedition, ^b *gratis*, and without any difficulty, by those whose Office it is, and to whom it is known to belong. If any one do knowingly violate this

^z The bidding of the Beads is here evidently meant, of which you have a very ancient Form in *Antony Harmer*. It was call'd *Prayers*, by reason of the *Kyrie Eleison*, *Ave Maria*, and *Pater-noster*, being several times repeated after the several Exhortations: So the Exhortation to Prayer in the LV Canon, is call'd a *Prayer* in the Title of that Canon on account of the Lord's Prayer, with which the Preacher is to conclude it.

^a See Const. 10. of *Peckham*, *A. D.* 1281.

^b It is certain this Constitution as to this Clause of granting the Licence without pay, is as much in Force as any Ecclesiastical Canon or Provision that ever was made in *England*. *L.* says, nothing must be accepted, tho' the Priest freely offer it, and proves it from the Canon-Law.

our

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our Statute (which is only a putting the ancient Law in execution) after its Publication, by preaching of his own Temerity, contrary to the Form herein mention'd, let him incur the Sentence of greater Excommunication *ipso facto*: And we reserve the Absolution of him to ourself and our Successors, by the Tenour of these Presents. But if such Preacher despising this Statute, do a second time preach, teach, affirm, or pertinaciously by Word or Deed intimate, that the Church has not power to make such Ordinances by the Persons of it's Prelates, let the Sentence of Excommunication be duly aggravated against them by the Superiors of the Places, ^c and let them be forbid all Communion with Christian People: And when they are lawfully convicted of it, let them be declar'd Hereticks by the Ordinary of the Place, and from that Time be reputed Hereticks and Schismatics by all, to all effects of the Law; and let them incur the Penalties of Heresy and Schism, as exprest in the Law *ipso facto*, and especially that their Goods be deem'd confiscated in Law, and seiz'd by those to whom they belong; unless they repent and abjure in the accustom'd Form of the Church. And if their Fautors, Receivers and Defenders, desist not within a Month, after they have lawfully been admonish'd in this behalf by their Superiors, let them have the same Punishment inflicted on them in all respects when they have been convicted of it.

^c The Sentence of greater Excommunication was aggravated, by actually excommunicating them that convers'd with those who were under this Sentence with a lesser Excommunication; and if they persisted to converse with them after Admonition given, with a Sentence of greater Excommunication.

2. Farther, let not the Clergy or People of any Parish or Place whatsoever in our Province, admit
2 any

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any one to preach in Churches, Churchyards or any other Places, unless full Assurance be first given of his being authoriz'd, privileg'd, or sent, according to the Form aforesaid; otherwise, let the Church, Churchyard, or ^d other Place whatever where the Preaching was, be *ipso facto* laid under Ecclesiastical Interdict, and so remain till they who admitted or permitted him so to preach, have made satisfaction, and have procur'd a relaxation of the Interdict in due Form of Law to be made by the Diocesan or other Superior. Farther, as the good Husbandman sows his Seed on such Ground as is most fit to produce Corn, we will and command, that the Preacher of God's Word coming in Form aforesaid, do observe a Decorum as to the subject Matter in his Preaching to the Clergy or People, so that the Seed be fitted to the Auditory under him, by Preaching to the Clergy chiefly of those Vices that are growing up among them; and to the Laymen of the Sins most rife among them, and not otherwise. Else let him that so preacheth be canonically and sharply punish'd by the Ordinary of the Place, according to the quality of the Offence.

^d By the Place, here, we are to understand the Men of the Place. *L.*

3. Because that Part which does not agree with it's whole, is rotten, we decree and ordain, that no Preacher of the Word of God, or other Person, do teach, preach, or observe any thing in relation to the Sacrament of the Altar, Matrimony, confession of Sins, or any other Sacrament of the Church or Article of Faith, any thing but what hath been determin'd by Holy Mother Church, nor call in question any thing that has been decided by her; nor let him knowingly speak scandalously either in publick or private concerning
theſe

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these Things; nor let him preach up, teach, or observe any Sect or Sort of Heresy, contrary to the sound Doctrine of the Church. Let him incur the Sentence of Excommunication *ipso facto*, who knowingly and pertinaciously attempts the contrary after the Publication of these Presents; from which let him not be absolv'd, except at the Point of Death, unless he reform himself (by first abjuring Heresy generally or simply in the accustomed Form of the Church, at the discretion of the Ordinary, in whose Territory he is convicted of having committed the Offence;) and have receiv'd salutary Penance for what he has done: And if he undertake to do this a second time, and so relapse, let him be declar'd an Heretick and Relapse convict by Sentence formally pass'd, and let his Goods be deem'd confiscated, and seiz'd by ^e them to whom they belong. And we will, that the Penance before mention'd, be such, that if any Man have publickly or privately taught, preach'd, or affirm'd any thing contrary to the determination of the Church, contain'd in the the Decrees, Decretals, or our ^f Constitutions Provincial, or any sort of Heresy or Sect, he shall expressly recant the Things so preach'd, taught, or affirm'd in the Parish Church of the Place, where he preach'd, taught, or affirm'd them, upon some one or more Lord's-days, or other Solemn-days,

^e The immoveable Estates both of Clerks and Laymen, belong'd to the Secular or Ecclesiastical Lord of the Fee, and so did the moveable Goods of Laymen; but the Moveables of Clerks, in this case, belong'd to the Churches in which they were beneficed; and if they were not beneficed, to the Bishop of the Diocese. *Lindwood.*

^f That is, all this Book of Provincial Constitutions, says *Lindwood*, not *Arundel's* only. And he asserts the obligation of all these Constitutions from the Canon-Law.

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at the discretion of the \S Ordinary, according as he is convicted to have offended more or less, at high Mass when the greatest number of People is present; and shall effectually and without Fraud, preach, teach, and recite the Determinations of the Church; and shall be otherwise punish'd in proportion to his Demerits, as shall seem most expedient to the Ordinary.

\S L. asserts the Bishop to be Ordinary in cases of Heresy, even in exempt Religious Houses: He confesses, that according to the Canonists, they are but delegated Ordinaries; but seems to think they are delegated by Law, (meaning the Canon-Law) tho' Popes were willing to have it thought they were delegated by them. To me the Opinion of these Canonists seems most just, who said, that the Power of the Bishop in Places exempt, (as to the Point of Heresy) was a restitution of his Ordinary Power; and that therefore he was the proper Ordinary by this restitution, as he certainly was before the Popes wrested this Power from him by granting these Exemptions. Yet L. owns, that this Constitution does not reach exempt Places, unless they were Parish-Churches.

4. Because an old Vessel retains a relish of what it first contain'd, we enact and ordain, that Masters and all who teach Boys or others the Arts, or Grammar, and that instruct Men in the first Sciences, do by no means undertake to instruct them in the Sacrament of the Altar, or other Sacraments of the Church, or upon any Theological Point contrary to the Determinations of the Church, nor in expounding any Text of Scripture otherwise than of old it used to be expounded; and that they do not permit their Scholars, or Disciples publickly, or even privately to dispute concerning the Catholick Faith, or the Sacraments of the Church. Let him that transgresses be severely punish'd as a Fautor of Errors and Schism by the Ordinary of the Place.

5. Because

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f. Because a new Path oftner misleads Men than an old, we will and ordain, that no Book, or Treatise compos'd by ^h *John Wicklif*, or by any other in his time, or since, or hereafter to be compos'd be henceforth read in the Schools, Halls, Inns, or other Places whatsoever within our Province aforesaid, and that none be taught according to such [Book] unless it have been first examin'd, and upon Examination unanimously approv'd by the University of ⁱ *Oxford*, or *Cambridge*,
or

^h *L.* here calls *Wicklif* an Arch-heretick, and says, by his Doctrine all *Bohemia* was poison'd; and adds, that his Body, at the command of the Apostolical See, was taken out of it's Grave and then cast into a neighbouring River; and that *Richard Flemming* Bishop of *Lincoln* executed this Sentence. And this Year, says he, 1429, Pope *Martin V.* has rais'd a Crusade against *Bohemians*, as Rebels against the Orthodox Faith.

ⁱ It seems plain that *Oxford* was by this time in some measure recover'd from it's Zeal for *Wicklif*. For this University was the great strength of his Party; and it seem'd to little purpose for the Prelates to attempt any thing against him and his Opinions in an Ecclesiastical Way, while he had so great a Body of the most Learned Men in *England* on his Side. Fifty Years were now almost past since *Wicklif* began to preach; and nothing could have stop't the Progress of his Doctrine, but so severe a Statute made in the second Year of this King's Reign, and a violent execution of it. Archbishop *Sudbury* endeavour'd once, and again, to have *Wicklif* solemnly condemn'd as an Heretick by the Bishops; for which end he caus'd them to be assembled; but his Design was defeated, and the Assemblies broke up in confusion; so that he was forc'd to be satisfied with a condemnation of his Doctrines, and a Process against some of his Followers. Pope *Gregory XI.* condemn'd his Opinions, and cited him to appear at *Rome*; but neither he, nor his Agents here in *England*, could ever get him into their Clutches; so that he died in peace Rector of *Lutterworth* in *Leicestershire*, A.D. 1387. But now the Popish Prelates having reduc'd *Oxford*; and being fortified with a Statute which made Herety a capi-

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tal Crime, proceed against him after his Death, with a Zeal agreeable to their Principles. The Encomium given by the University of *Oxford* to *Wicklif* at the end of the Works of *John Hus*, and the Affirmation that he had never been condemn'd by the Bishops, must be misdated; 1406 is too late for such a Representation.

or at least by twelve Men chosen by the said Universities, or by one of them under the ^k Discretion of us, or our Successors; and then afterwards [the Book be approv'd] expressly by us, or our Successors, and deliver'd in the Name, and by the Authority of the Universities to be ^l copy'd, and sold to such as desire it; after it has been faithfully collated at a just price, the Original thenceforth remaining in some Chest of the University for ever. And if any one shall read Book or Treatise of this sort in the Schools, or elsewhere contrary to the Form above written, or shall teach according to it, let him be punish'd according as the quality of the Fact shall require, as a sower of Schism, and a Fautor of Heresy.

^k *Sub discretione laudabili, Lat.* that is, says *L.* that the Names of the twelve Persons should be reported to the Archbishop before they were finally chosen, and he consent to their being elected; and that discretion is laudable, as he adds, which makes no unreasonable Exceptions in case that the Persons were well qualified.

^l Printing was an Art not yet practis'd in *England*. If *Wicklif's* Books could have been dispers'd in as great numbers, and with as much expedition as other Books since this Art has been in use here, it is probable he himself by this means had liv'd to see a publick legal Reformation.

6. The Translation of the Text of Holy Scripture out of one Tongue into another, is a dangerous thing as Blessed *Hierom* testifies, because it is not easy to make the Sense in all respects the same; as the same Blessed *Hierom* confesses that he made frequent

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frequent mistakes in this Business, ^m altho' he was inspir'd: Therefore we enact and ordain, that no one henceforth do by his own Authority translate any Text of Holy Scripture into the *Englisb* Tongue, or any other ⁿ by way of Book, or Treatise. Nor let any such Book, or Treatise now lately compos'd in the time of *John Wicklif* aforesaid, or since, or hereafter to be compos'd, be read in whole or in part, in publick or in private under pain of the greater Excommunication, till that Translation have been approved by the Dioceſan of the Place, or if occasion ſhall require by a Provincial Council. Let him that transgreſſeth be puniſh'd as a Fautor of Hereſy, and Error.

^m *Lat. etſi inspiratus fuiſſet, ſe in hoc ſæpius fatetur erraſſe.* This and the following obſcurity ſeem to be affected; All three Copies agree in both places; and this Conſtitution is plainly of a piece with all the other Proviſions made by the *Romaniſts* on this Head. They boaſt that the Tranſlation of Scripture is not forbidden, nor the uſe of it, by any abſolute Law or Precept of their Church. But the Artiſices and Eviſions uſed by the ruling Part of that Church, do as effectually keep the Bible from the Eyes of the People, as a thouſand prohibitive Laws or Canons could do it.

▪ *Textum aliquem Sacre Scripturae — per viam libri, libelli, aut tractatus,* *Lat. any Text,* may ſignify, either the *Hebrew, Greek or Latin Text,* and then it ſignifies the whole Bible. *Text* may denote only ſome particular Verſe or Verſes of the Bible. *Book* may denote the whole Old and New Teſtament, as *L.* obſerves, or it may import ſome one Book of either. But *Treatiſe,* as the ſame *L.* ſuggeſts, properly ſignifies a Work wherein Scripture is applied to ſome Sayings of the Doctōrs, or of one's own: So that this Net ſeems to be made for the catching or letting go, whomſoever, and whatſoever they pleas'd.

7. Since the Determiner of all things cannot be concluded by Philoſophical Terms, or human Inventions, and Bleſſed *Auguſtin* does frequently re-

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voke true Conclusions which were offensive to pious Ears, we ordain, and with an Obtestation of the Divine Judgment, we in a very special manner forbid any Man of what Degree, Estate, or Condition soever he be, to assert or propose any Conclusions, or Propositions that carry a Sound contrary to the Catholick Faith, or good Manners (having the necessary Doctrines of his Faculty) in disputing in the Schools, or out of them, or in Conversation with, or without a Protestation; even tho' they may be defended by subtilty of words: For as Blessed *Hugo* says, *What is well said is often not well understood.* But if any one after the Publication of these Presents shall be convicted knowingly to have proposed, or asserted such Conclusions, or Propositions, unless upon Admonition he reform himself, by the Authority of this present Constitution let him incur the Sentence of the greater Excommunication *ipso facto*, and be publicly denounc'd excommunicate, till he publicly confess his Offence in the Place where he made such Propositions, or Assertions, and have publicly preach'd the true Catholick meaning of the said Conclusion or Proposition, at the Discretion of the Ordinary, in one or divers Churches, as shall seem expedient to the Ordinary.

8. Let no one presume to dispute of things determin'd by the Church (as they are contain'd in the Decrees, Decretals, or Provincial Constitutions, and the Synodal [Constitutions] of Places) either publicly, or privately; unless it be in order to get the true meaning of them; nor call in question the Authority of the said Decrees, Decretals, or ° Constitutions, or the Authority of

° *L's.* Text at present adds *Provincial*; but his own Text seems to have had no such Word. For his Gloss on the Word *Constitutionum*, is, *five Provincialium, five Synodaliū.*

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¶ him that made them; or preach contrary to their Determination, especially concerning the Adoration of the glorious Croſs, the veneration of the Images of Saints, or Pilgrimages to their Places and Relicks; or againſt making Oaths in the uſual Caſes and manner in both Courts, *viz.* Eccleſiaſtical and Temporal. But let all henceforth preach up the veneration of the Croſs, and of the Image of the Crucifix, and other Images of Saints in Memory and Honour of them whom they reſemble, and their Places, and Relicks, with Proceſſions, Genuflexions, Bowings, Incenſings, Kiſſings, Oblations, Pilgrimages, Illuminations, and all other Modes and Forms whatſoever uſed in the times of us, and our Predeceſſors; and the making of Oaths in a lawful manner, by touching God's Holy Gospels, and upon the ſame in Caſes expreſs'd in the Law, and uſed in both Courts by all who are concern'd. Let him that aſſerts, teaches, preaches, or pertinaciously intimates the contrary incur the Penalties of Hereſy, and of a Relapſe into the Conſequences of it, and be ſentenc'd as ſuch, as to all Effects of the Law, unleſs he do Penance in manner and form elſewhere by us appointed, and abjure as it is there provided.

¶ This Conſtitution here, fairly owns, that all Conſtitutions, Decretals, or Decrees, are made by the Authority of one Man, *viz.* Dioceſan Conſtitutions by the Biſhop, Provincial Conſtitutions by the Archbiſhop, Decretals and Decrees by the Pope; ſo that the Priests in the Dioceſe, the Suffragan Biſhops in the Province, the Cardinals in the Conclave, were only applauders.

9. We ordain and decree, that none be admitted to celebrate as Chaplain in any Dioceſe of our Province of *Canterbury*, who was not born ⁹ or ordain'd

¶ Tho' he was born, yet if he was not ordain'd in
114 the

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the Diocese, *L.* says, the Constitution takes hold of him; and tho' he was both born and ordain'd there, yet if he have been long in another Diocese, he ought to have a Certificate of his Behaviour.

ordain'd there, unless he bring with him the Letters of his ^r Orders, and the Commendatory Letters of his ^t Diocesan, and also of other Bishops in whose Dioceses he has any length of Time staid; Which Letters, we will and command to be cautious and exprefs, in regard to the Manners and Conversation of the Person; and whether he have been diffam'd for and concerning the new Opinions, which have an ill aspect on the Catholick Faith and good Manners, or whether he be wholly clear as to these Points. Let him that celebrates, and he that permits it without such Letters, be sharply punish'd.

^r Not only of his Priesthood, but of his inferior Orders, says *L.* If so, the Secretaries of those Bishops, who detain the Letters of Deacons Orders from such as are ordain'd Priests, are much to blame.

^t Or of any Person who has the Privilege of giving such Letters, *viz.* the Chancellor of either Univerſity, *L.*

10. New and unusual Emergencies, require new and mature Applications; and the greater the danger, the more caution and opposition is necessary. What is less valuable should be discreetly prun'd off for the Improvement of what is truly noble. Considering and lamenting, how our Almous Univerſity of *Oxford*, which like a thriving Vine us'd to spread her Branches to the Honour of God and the Advancement and Protection of his Church, is in part degenerated and brings forth sower Grapes, by eating whereof many of her Sons being too well conceited of their Knowledge in the Law of God, have set their Teeth on Edge, and our Province is infected with new unprofitable Doctrines,

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Doctrines, and blemish'd with the new damnable Brand of Lollardy, to the great Scandal of the University itself, reaching to remote Foreign Parts, and to the exceeding regret of those who study there; and to the seemingly irreparable damage of the Church of *England*, (which us'd to be defended by her Virtue and Learning, as with an impregnable Wall, but whose Stones are now squandred) unless speedy remedy be us'd: Therefore upon the Petition of the Proctors of the whole Clergy of the Province of *Canterbury*, and with the consent and assent of all our Brethren and Suffragans, and the other Prelates that are present in this Convocation of the Clergy, and of the Proxies of the absent, (lest the Fountain Head being polluted, the Stream be made impure, even after the cleaning of the River;) we desiring to make wholesome Provisions for the Honour and Utility of Holy Mother Church, and of the University aforesaid, do enact and ordain, that every Warden, Provost and Rector of a College, and the principal of every Hall or Inn of the said University, do once at least in every Month make enquiry with diligence in the College, Hall or Inn over which he presides, whether any Scholar or Inhabitant thereof have asserted, held, defended, or in any wise propos'd any Conclusion or Proposition that carries a sound contrary to the Catholick Faith or good Manners, against the determination of the Church, tho' it were no necessary Doctrine of his Faculty: And if he find any one suspected or diffam'd in this respect, let him admonish him effectually to desist; and if he do after this Admonition again advance the same, or like [Tenets], let him incur the Sentence of the greater Excommunication *ipso facto*, beside other Punishments appointed by us. And yet, if he who do this be a Scholar, let nothing that he does thence forward

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ward in the said University, be taken as done in due Form^t: And if he be a Doctor, Master, or Batchelor, let him be therupon suspended from all Scholastick Acts, and let him in both Cases *ipso facto*, lose all Right that he has in the College, Hall or Inn, and let him be actually expell'd by the Wardens, Rectors, Provosts, Principals, or others whom it concerns, and let a Catholick forthwith be legally substituted in his Place. And if the Wardens, Provosts, Rectors of Colleges, or Principals of Halls or Inns, where such suspected, detected or diffam'd Persons are, be negligent in their Enquiries or Execution of the Premises, for ten Days next following the ^a real or presum'd Publication of these Presents, let them *ipso facto* incur the Sentence of the greater Excommunication; and yet let them be *ipso facto* depriv'd of all Right which they pretend to have in those Colleges, Halls or Inns; and let the Colleges, Halls and Inns be effectually void; and after a lawful Declaration made therof by such as are concern'd to do it, let new Wardens, Rectors, Provosts or Principals be substituted according to the ancient Custom of the said University. But if the Wardens, Rectors, Provosts or Principals themselves are suspected, diffam'd or detected, for and concerning such Conclusions or Propositions, or as Defenders, Maintainers or Fautors of them, if upon an Admonition from us, or by our Authority, or by the ^x Ordinary of the Place, they do

^t In order to qualify him for a Degree.

^a *L.* takes the *real* Publication to imply the Parties being present at the time of doing it; the *presumed* to denote it's being generally known to have been publish'd, tho' two or three may pretend Ignorance: And this Ignorance well prov'd, excus'd the Offenders for two Months after such Publication.

^x In this Case the Chancellor of the University is an Ordinary. *L.*

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not desist, let them be depriv'd in Law from that time forward of all Scholastic Privileges of the University aforesaid, and of the right which they had in the said College, Hall or Inn, beside other Punishments abovemention'd, and farther incur the Sentence of the greater Excommunication. And if any Man rashly and pertinaciously presume to violate these our Statutes in any Case mention'd in this Constitution, in the last, or in any other above express, altho' some other punishment be there expressly assign'd, let him therupon be made wholly incapable from that time forward of obtaining any Ecclesiastical Benefice in our Province of *Canterbury* for three Year, without any hope of pardon; and yet be canonically punish'd at the discretion of his Superior, in proportion to his Demerits, and according to the Quality of his Excess: Further, lest we should leave any thing at uncertainties, we observe, that in several ^y Laws some Parity between the Crime of Heresy and Lese-Majesty is mention'd, and yet that the Guilt is unequal; and the offending the Divine Majesty requires a severer Punishment than offending Humane Majesty; since therefore he who is guilty of Lese-Majesty may be convicted by Informations, and be proceeded against in a summary unformal Manner, (because of the danger of delay) and by first sending a Citation by Letters, by a Messenger, by Edict, and without a ^z *Litis Contestatio*, to the hearing of Witness, and to a definitive Sentence: We will, ordain and declare, that for the more easy Punishment of Offenders in the

^y This is to be understood of the imperial Civil-Law.

^z This is a Term, which in the Canon-Law signifies actually opening the Cause before the Judge, after Citation and return of it, and constituting a Proctor, and bringing in the Libel or Declaration.

Premises,

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Premisses, and for the making up the Breach of the Church, that hath been injur'd by this Means; such as are diffam'd, detected, denounc'd or vehemently suspected in any of the aforesaid Cases, or in any other Article that carries a sound contrary to Catholick Faith or good Manners, be Personally cited by Authority of the Ordinary of the Place or other Superior, by Letters, or by a sworn Messenger, if they can be caught; but if not, then by an Edict at the Place where the Offender hath an House in which he commonly dwells, and publish'd in the Parish Church, if he have a Place of Habitation, if not, in the Cathedral Church of the Place of his Birth, and in the Parish Church of the Place where he so preach'd and taught; and when a lawful Certificate is receiv'd of the Summons having been executed, let them proceed against the Party thus cited, tho' he be absent and neglect to appear (^a without noise and Forms of Judicature, or a *Contestatio Litis*, upon the hearing of ^b Evidence and other Ca-

^a This summary Way of Proceeding against Hereticks was thought a great grievance, not only because the formal Way was most dilatory, but because the Defendant had not the advantage of such slips and mistakes as are often made by Judges, Advocates or Proctors in a long Process.

^b Another grievance justly complain'd of in case of Heresy was, that any Person, tho' excommunicate, infamous, and tho' he was himself guilty of Heresy might be witness in this Case; nay, he that had depos'd against a suspected Person, could not null his Evidence by his own declaring himself forsworn in what he had depos'd: But if a Witness had depos'd in favour of a suspected Party, and afterwards swore the contrary, the last Oath stood, not the first: Only Personal Malice was an allow'd Exception against a Witness in this Case, *L.* This Constitution and these Glosses is a sufficient Proof of the inexcusable Fury of the Papists against all that differ'd from them.

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nonical Proofs,) as a Punishment for his Contumacy. Let the same Ordinary, upon lawful Information receiv'd, without delay, sentence, declare, and punish him according to the quality of his Offence, in Manner and Form before express'd, and further do justice upon the Contumacious notwithstanding his absence.

^c *Thomas* by Divine Permission Archbishop of *Canterbury*, Primate of A. E. and Legate of the Apostolical See to our venerable Brother, Lord *Richard* Bishop of *London*, Health, and brotherly Charity in the Lord. Whereas in our Provincial Council lately celebrated at *Oxford*, we did with the advice and consent of you and our other venerable Brethren and Suffragans, at the instant Petition of our whole Clergy of the Province of *Canterbury*, make certain Provincial Constitutions against the Evangelical Detractors who endeavour to sow Tares in the Lord's Field, that is the Church Militant, and did afterwards repeat the Publication of them in our last Convocations celebrated in the Church of *St. Paul's, London*, before you and our venerable Brethren, and Clergy in due form, as we believe you cannot be ignorant; we farther considering that Laws are made in vain, unless they be duly executed, [send you] the said Constitutions annex to these Presents enclosed under our Seal, commanding you (lest any one might plead ignorance) that ye transmit Copies of these Constitutions under your Seal, and Letters (which are to contain a Copy of these) to every venerable our Brother, and Suffragan of our said Province, and injoin them by our Authority (as we do by these Presents) that they do every one publish, or cause to be publish'd in due Canonical manner, the said Constitutions in every of their Cities and Dioceses, as it concerns them to

^c The following Letter is only in the *Oxford* Copy.

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do in their Synods and Chapters according to Canonical and Provincial Constitutions in this respect made; and do ye, our venerable Brother, execute the same in like manner in your Cities and Dioceses as it concerns you to do; and by your Letters Patents (containing a Copy of these) duly certify us of the Day when ye receiv'd these Presents, and of the manner and form of your executing them, and of what ye have done in the Premises before the Feast of St. *John* Baptist next coming; and firmly injoin our venerable Brethren by our Authority, that every one of them do make a like Certificate to us in due and distinct manner before the Feast aforesaid. Dated in our Castle of *Queenburgh*, 13th day of *April*, in the Year of our Lord 1409, and of our Consecration the 14th.

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Archbishop Chichley's Constitutions.

Sir H. S. vol. 2. p. 669.

Lat. **T**HE Constitution of the venerable Father in *Christ*, *Henry Chichley* Archbishop of *Canterbury*, publish'd from *Otteford A. D. 1415.* in the third Year of *Henry V.* the magnanimous King of *England*, the Apostolical See being then vacant by the deposition of *John 22^d*, *alias* the 23^d.

1. *Henry* by Divine Permission Archbishop of *Canterbury*, Primate of A. E. and Legate of the Apostolical See, to our venerable Brother the Lord *Richard*, Bishop of *London*, Health and Brotherly Charity in the Lord. The Lord of ineffable Might, whose Highness is unbounded, governs all things in Heaven and Earth with right Judgment;

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ment; and tho' he bestows Honours and Blessings to all his Ministers in Heaven; yet he favours some of the Inhabitants of the several Countries of Christendom with peculiar Praises and Rewards, such as he hath intended for special Patrons and Intercessors; that so the Devotion of the People under such a Patron and Intercessor, establish'd by the constant mercy of God may be more big with the Praises of them. Upon Consideration of this, the faithful People of *England* tho' bound duly to Praise God in all his Saints, yet especially to extol and sound forth Praises, and venerate him with peculiar Honours in his most glorious Martyr the Blessed *George*, the special Patron and Protector of the Nation, as the Speech of the World and the Experience of Grace from above (the best Interpreter of all things) do attest. For by his Intervention not only the *English* Army is protected against the Assaults of Enemies in time of War; but the Host of the Clergy is corroborated in their peaceable Fight under the Suffrage of so great a Patron, as we undoubtedly believe. We therefore desiring that the Praises of God in his Saints may be amplify'd, excited by the Admonitions of the King and the People of the Kingdom, and by the advice of our Brethren, and of the Clergy of our Province, and supported by the Decree of our Provincial Council, imitating the Devotion of the Holy Fathers towards God's Saints, do will, ordain and charge with the expresse consent of our Brethren and Clergy, that the Feast of Blessed *George* the Martyr be celebrated solemnly every Year for the time to come for ever, in the manner, and with the Office of a double Feast, both by the Clergy, and People of our Province of *Canterbury* in all Churches of the same. And we charge that ther be a Cessation from all servile Work on the said Feast in all the Cities

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and Places of our Province, as on the Feast of the Nativity of our Lord; that the faithful People may assemble in greater numbers, praise God, and more devoutly implore the Patronage of this Saint and of all the Blessed, and more fervently pray for the Safety of the King and Kingdom.

Farther by Authority of the said Council we decree, and do also ordain by these Presents, that the Feasts of Saints *David* and *Chad* Bishops, and of *Wenefred* the Virgin be perpetually celebrated for the future thro' our whole Province of *Canterbury* at their proper Seasons, viz. St. *David* on the first, St. *Chad* on the second day of *March*, *Wenefred* on the third day of *November*, with a ^d Regimen of the Choir and nine Lessons. And we command and firmly injoin you our Brother by the Tenour of these Presents, that ye solemnly celebrate the Feasts aforesaid every Year for the future in the solemn manner before-mentioned, and cause the same to be done in your City and Diocese both by Clergy and Laity. And we will and command that ye do by Authority of us and the said Council, command and injoin our Fellow-Bishops, and Suffragans of our Church of *Canterbury*, whom we in like manner do command and injoin, that every one of them do cause the said Feasts every Year perpetually for the future to be solemnly celebrated in manner aforesaid by the Clergy and Laity in their Cities and Dioceses. And do ye distinctly certify us by your Letters containing a Copy of these, sign'd with your Seal, before the Feast of the Purification of the blessed Virgin *Mary* next to come, of what ye have done in the Premisses, and how, and in what Manner ye have executed this present Mandate.

* I take the Regimen of the Choir to have consisted in the greater exactness and artfulness of the Musick, and the Festival Habits of them who presided in it.

And

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And do ye command every one of our Brethren aforesaid, that they do not neglect particularly in like manner to certify us, so far as this Mandate concerns their Cities and Dioceses before the Feast of *Easter* next coming; under such Penalty as ought to be inflicted on you and them, if ye do otherwise. Dated in our Manor of *Otteford* the 4th Day of *January*, in the Year of our Lord 1415. and of our Translation the second. *Oxford* Edit. p. 69.

2. Whereas the Church suffers great Scandal, and Ecclesiastical Censure and Authority grows cheap from that Presumption, which ^e married, and ^f bigamous Clergymen, and even ^g Laymen are guilty of in exercising Ecclesiastical Jurisdiction,

^e A married Clerk was in all respects reputed as a Layman, saving that if he kept his Habit and Tonsure, he could be conven'd according to the Canon-Law before no Secular Judge; and if any one laid violent Hands on him, he was excommunicated *ipso facto*, and none could absolve him but the Pope.

^f Not only the Clerk who had successively married two Wives and laid with them, but he who had married a Widow, or one betroth'd to another, or divorc'd by a former Husband, or dismiss'd on account of Affinity or Consanguinity, or that was corrupted by another before Marriage, or who lay with his own Adulterous Wife, was interpretatively a Bigamous by the Canon-Law. But this Law does expressly allow a Dispensation to be granted to him, that being a Priest had successively had two Concubines: For this is *only simple Fornication*, and no Irregularity is thereby incurr'd; so says *Innocent III.* in his Decretal *A. D.* 1213. Decretal. *Greg.* 9. *L.* 1. *Tit.* 21. *c.* 6. God deliver us from such Laws.

^g It is evident that Popish Prelates did introduce this practice of granting Ecclesiastical Jurisdiction to Laymen. They had many Decrees and Canons against it, but to no purpose, especially because the Pope was allow'd to have the Power of dispensing in this. *Gregory I.* commission'd his Subdeacon to exercise all manner of Ecclesiastical Jurisdiction. Many Abbots who in virtue of their Places had Ecclesiastical Jurisdiction, were not

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in Orders, however not Priests or Deacons. Archdeacons, tho' they were not Priests, yet were acknowledg'd to have the Power of Excommunication if it had been exercis'd by their Predecessors. Our Reformers thought, that if Laymen were capable of this Jurisdiction by virtue of a Pope's Dispensation, they were capable of it without any such Dispensation; for the Pope's Will could not alter the Nature of Things: So this Deviation from Primitive Order was establish'd, but the Occasion of all, was the Bishop's grasping a civil Jurisdiction together with his temporal: And when he found he was not sufficient for both, delegating them to others.

on, and in trying, punishing, correcting and decreeing Letters of Excommunication for Crimes and Excesses belonging to the cognizance of the Church, sometimes in their own Name, sometimes under the cover of another Man's Name; and in being Scribes, or Registers, and keepers of Registries in Businesses concerning such Corrections. We therefore desiring to oppose such Scandals, and to provide for the Honour of the Church in imitation of the ancient Canons, do ordain and enact by Authority of this present Council, that no married or bigamous Clerk, nor Layman do for the future exercise any spiritual Jurisdiction whatsoever under any pretence, either in his own Name, or in any others; nor be Scribe, Register, or Keeper of a Registry in any wise in Causes of Correction, or when the Judge proceeds to the Correction of the Soul, or ^h *ex Officio*: And that whatever Ordinary inferior to a Bishop, or whoever having Ecclesiastical Jurisdiction presumes to receive a married, or ⁱ bigamous Clerk, or any Layman into the said [Offices],

^h The Judge proceeds *ex Officio*, when he cites any one without any Instance or demand made by others.

ⁱ *Bigamus* comes after *Laius*, both in L's present Text, and in the *Oxford* Copy, by an evident mistake of the Transcribers.

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or any of them, or knowingly to tolerate, or retain them in such Office of Jurisdiction; or that does not remove such an one, whether already admitted, or hereafter to be admitted within the space of two Months after the Publication of this Constitution; let him incur the Penalty of Suspension from the exercise of such Jurisdiction, and from Entrance into the Church *ipso facto*. And farther let the Citations, Processes, Sentences and all Acts whatsoever had, or done in the Premises or any of them in the manner aforesaid by the said married or bigamous Clerks or Laymen be null and void in Law. And let the said married, bigamous Clerks or Laymen that thrust themselves into the aforesaid [Offices] or any of them contrary to the Prohibition of the present Council incur the Sentence of the greater Excommunication *ipso facto*.

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PREFACE. *Archbishop Chichley's Constitutions.*

THIS Year Archbishop Chichley held a Convocation in London, as he did also the Year foregoing. But it is foreign to my Design to give my Reader the account of his chusing according to ancient custom four Bishops as Representatives for the Council of Constance in the former, and of his Constitution in favour of the Graduates of the Universities in the latter: Much less will the Reader expect from me the History of the Universities defeating this Design of the Archbishop in preferring Men according to their Academical Degrees, on account of the discouragement it gave to those that were the majority, that is the inferior Graduates, by reserv-

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ing the best Benefices that were in the Gift of Ecclesiasticks to those that were Doctors in some one of the three Faculties. Nay I shall omit his Constitution made in this same Convocation for the regulating the Probate of Wills and Administrations; as not so agreeable to my present Scheme, tho' I have indeed inserted such Constitutions, when I found them intermixt with other properly Ecclesiastical Constitutions. But this Archbishop made a new Precedent in this respect: For he issued two Mandates for the publishing these two Constitutions severally, tho' both Mandates bore the same date, and I wish Ecclesiastical and Civil Matters had always been kept at a greater distance from each other. But the following Constitution against Heresy challenges its proper place in this Collection.

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Archbishop Chichley's Constitutions.

Sir H. S. vol. 2. p. 672.

1. **H**ENRY, &c. to our venerable Brother Richard, by the Grace of God Bishop of London, Health, &c. We remember that the Constitution underwritten was made by us in the last Convocation, of late celebrated in the Church of St. Pauls London, with the consent of us and our Brethren, and the Clergy of our Province. Whereas the taking of Hereticks, who like Foxes sculk in the Lord's Vineyard, ought to be our principal care, that the Dust of negligence may be shaken off clean from the Feet of our Selves and our Brethren: We ordain in this Convocation of the Prelates and Clergy, that every one of our Suffragan Brethren, and of the Archdeacons of our Province of Canterbury, do by themselves, or their Officials and Commissaries, diligently make enquiry

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enquiry in their several Jurisdictions in every rural Deanery twice at least every Year, after Persons suspected of Heresy, and cause ^k three or more Men of good report in every Deanry and Parish in which Hereticks are said to dwell, to swear on

^k From the Time that the Repairs of Churches, and the Ornaments therof were laid as a Charge on the Parishioners, and this Charge was defrayed in part by the Bequests of devout People, in part by Assessments or Levies, it was absolutely necessary that ther should be settled Officers or certain Men assign'd to take care of those Reparations and Ornaments, and to receive such Bequests and levy such Sums as were necessary for these Purposes. As we are sure that Church Assessments were made in the beginning of the 14th Century, (for which see *Walter Reynold's* sixth Constitution, 1322.) so we may be certain, that from that Time forward these Officers were often oblig'd to make presentments of such as made default in paying their Church-Rates; and were by other Matters incident to their Office more directly under the Inspection of the Ecclesiastical Court, than other Parishioners. And when the Zeal of the Prelates against Lollardy, prompted them to make more frequent and strict enquiry into the Behaviour of the People than formerly, they thought it necessary not only to charge a certain number of Men upon Oath, as they had formerly done in their Synods and Chapters, to discover such past Scandals and Offences as they knew, but to have two or three in every Parish sworn to make Discoveries of this sort for the Time to come: But it is evident, that it was not a fixt Rule that the Churchwardens should perform this Office of giving Information when this Constitution was made; yet it is reasonable to suppose, that the Churchwardens were generally the settled Presenters, tho' these Offices were not yet perfectly united. And some short time before the Reformation they gradually became the same Officers. They did from their first beginning present, sometimes by themselves alone, sometimes with other credible Men join'd with them, whom we call Side-men, or Assistants. Of old Churchwardens gave up their Accounts on *All-Souls Day*; but since the Reformation at *Easter*.

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God's holy Gospels, that if they know any Hereticks who keep private Conventicles, or differ in their Life and Manners from the generality of the Faithful, or who maintain Heresies or Errors, or have suspected Books written in the vulgar *English* Tongue, or that entertain Persons suspected of Heresies or Errors, or that favour such, to dwell or converse, or resort in or to such Places, they will inform against and discover in Writing, so soon as conveniently they can, those Persons with all such Circumstances upon which they are suspected, to our said Suffragans, Archdeacons, or their Commissaries. And let those Archdeacons, and every Commissary secretly transmit under their Seals the Names of the Persons so inform'd against, with the Circumstances to the Diocesans of the Places. And let those Diocesans make lawful Process against them with effect; and decree, define, and execute effectually as the nature of the thing requires. And if any Persons be convicted, whom they do not deliver to the Secular Court¹; let them in good earnest commit them to perpetual, or temporary Imprisonment (as the nature of the thing shall require) at least till the next Convocation of the Prelates, and Clergy of the Province of *Canterbury*, and cause them so to be kept according as the Law requires. And let them take care to certify us, and our Successors in the next Convocation of the Prelates, and Clergy in publick Form, distinctly and plainly concerning all and singular the Points aforesaid, *viz.* what Enquiries they have made, what Discoveries, how they manag'd the Process, and imprison'd the Convicts, concerning the diligence or negligence of the Archdeacons and Commissaries aforesaid, and all and singular the Circumstances concerning

¹ In order to be burnt. See the Stat. of the second of *Henry IV.*

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the Premisses, and especially of the Abjurations, if it happen that any in the mean time do abjure their Heresies: And let them deliver the said Processes effectually to the ^m Official of our Court of *Canterbury*, to remain in his Custody, or in the Registry of our Court of *Canterbury*, in such a manner that every one concern'd farther to prosecute such Processes may have effectual recourse to the said Official. We therefore command you, that you cause the aforesaid Constitution to be publish'd at proper Places and times throughout your City and Diocese, that you observe the same in all respects, and cause it so to be observ'd by others. Farther do ye command all and singular our Brethren, and Suffragans, that they cause it to be publish'd throughout their Cities and Dioceses; that they observe, and cause it effectually to be observ'd by others in like manner. And do ye duly certify us by your Letters Patents sign'd with your Seal, and containing a Copy of these Presents of what ye have done in the Premisses before the Feast of ⁿ St. *Peter ad vincula* next coming. Dated in our Inn at *London*, on the first Day of *July* in the Year of our Lord 1416. and of our Translation the third. Sir *H. S.* vol. 2. p. 673.

2. *Henry*

^m Who is also Dean of the Arches, for these Words are not meant of any Court holden at *Canterbury*, but the Court of Arches, as it is now called, which has been fix'd to *London* ever since the Time of *Robert Winchelsey* Archbishop. *L.* the Glossator was himself this Official, at the Time of the making this Constitution.

ⁿ This Feast was always called by the *English* *Lammæ*, by our *Saxon* Ancestors *Blaf-mæsse*: The present Name is only a Corruption of this old one; and it was so call'd from the Custom of offering a Loaf made of the new Wheat of the present Harvest in the Church on this Day. I know it is said that a Lamb was offer'd on this Day in the Cathedral of *Tork*, which is dedicated to St. *Peter*. But I must have leave to suppose, that

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this Custom grew up there after the *English* had forgotten the Language of their Ancestors, and were misguided by the present sound of the Word. *Durandus* and others, call it *Gula Petri*. If this had been the Name of it in this Island only, I should have suppos'd that it was so called, *q. d.* the *Tule* or *Feast of Peter*: But it went by this Title in the current *Latin* of the eleventh and twelfth Century: And the Legend of the Day tells us the occasion of it, *viz.* That *Balbina* was cur'd of a Disease in her Throat, by kissing the Chain in which St. *Peter* had been bound at *Rome*; and that *Alexander* the Pope, by whose direction she us'd this Remedy, did thereupon institute this Holiday. This makes the Feast to have been instituted before the middle of the second Century; and is therefore utterly incredible.

2. *Henry* by Divine Permission Archbishop of *Canterbury*, Primate of A. E. and Legate of the Apostolical See, to our beloved Son in *Christ* the Vicar General of the Spiritualities of our venerable Brother Lord *Richard* Bishop of *London*, who is in remote Parts, Health, Grace and Benediction. Whereas the sacred Name of the *English* Church, (whom all the World extols beyond the Churches of other Countries and Provinces for her devout Veneration of God, and his Saints) deserves to abound and exult in Praises and chearful Devotion toward them by whose Patronage and Miracles she gladly feels her self to flourish; and by whose pious Intercessions the publick Interest not only of the Church, but of the whole Kingdom is strenuously maintain'd by righteous Governors in the sweet repose of Peace, and with wish'd Victory over the Enemies that make opposition from without. For tho' God decreed to give Help to this Church of his, and the Kingdom of *England's* Inhabitants on the account of the Merits of divers Saints, with which she gloriously shines; yet he has of late more miraculously comforted them, as we sincerely trust, by the special Prayers of the almighty Confessor and Pontif, his most blessed

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blessed * *John of Beverly* [in behalf of] the said Church, together with the great Men of the Kingdom, and all its Inhabitants, and Members. O the ineffable Consolation of these our times especially, refreshing, and memorable to all Ages! that is the gracious Victory of the most Christian Prince *Henry the Fifth King of England*, and his Army in the Battle lately fought at *Agincourt* in the County of *Picardy*, which was granted to the *English* by the immense Mercy of God, to the Praise of his Name, and the Honour of the Kingdom of *England* on the Feast of the ^P Translation of the said Saint. In which Feast, during the Engagement of our Countrymen with the *French*, (as we and our Brethren heard in the last Convocation, from the ^q true report of many, and especially of the Inhabitants of the said Country) holy Oil flow'd by Drops like Sweat out of his Tomb, as an Indication of the Divine Mercy toward his

* This was an old *English Saxon* Saint, of whom *Bede* relates several Miracles, *Lib. 5. c. 2* — 6. He was 33 Years Bishop of *Hagustade* and *York*, the last but one of the eight who were mere Diocesans of that City, and had no Pall. He mightily affected the Monastic Life, and before his Death, retir'd to his old Cell at *Depa-pube*, since call'd *Beverly*, where he died *A. D.* 721, but was buried at *York*.

^P The Day on which his Body was remov'd from his Grave at *York* to his Monastery at *Beverly*, in compliance with pretended Revelations.

^q It is not to be wonder'd that the Northern People were forward Witnesses in a Point, which was like to turn to so good account. They knew how good a Market the Monks and People of *Canterbury* had made of *Becket's* Bones; and they were willing to have a Saint of their own Product to stop this People from carrying their richest Oblations so far Southward, and to invite Men from all Parts of the Nation to pay their Devotion at *Beverly*. But it was no great Honour to the *English* Nation, to suppose that they could not beat the *French* without a kind of Miracle.

People,

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People, without doubt thro' the Merits of the said most holy Man. Desiring therefore to dilate the Worship of God in our Province, especially for the elevating the Praise of so great a Patron: We do, with the Will, Advice, and Consent of our Brethren, and Clergy in the said Convocation, as also at the ^r special Instance of our said most Christian Prince, think fit that the Memory of the said most holy Confessor be every where throughout our Province exalted with votive and devout Affections; and do ordain with the advice and consent of our Brethren, and Clergy that the Feast of the ^s Deposition of the said Saint, which is known to fall on the seventh Day of *May*, that is on the Morrow of ^t *John Port Latin*, be celebrated for the future every where within our Province in the manner of a ^u Feast of one Confessor and Pontif ^x falling after *Easter*, with the Regi-

^r This plainly shews, that Kings before the Reformation, did not order Holy-days to be kept by their own Authority: And that the Convocation did not undertake to compile a new Office on account of the Victory, but to order the use of those before made.

^s Death.

^t *Joannes ante portam Latinam* was on the sixth Day of *May*, on which Day St. *John's* deliverance from the Caldron of burning Oil, into which *Domitian* had cast him, was celebrated.

^u There are in the Breviary, *Commune unius Pontificis & Confessoris, Commune duorum Confessorum, &c.*

^x On every Day between Low-Sunday and Ascension-Eve, a Memory of the Resurrection was to be added to the Service of the Day, excepting on the Invention of the Cross *May 3.*

The Reader will observe, that the Authority of Convocation was thought necessary to order the new Method of observing an old Holy-day of a Saint formerly canoniz'd, when the Observation was intended to oblige the whole Province. *L.* says these Words, *with the consent of our Brethren and Clergy*, were not only proper, but necessary.

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of the Church of *Sarum*, lest the Introduction of one Feast should prove the diminution of another, and that the said Martyrs also, (on whose Day, and by whose Merits the Lord from on High had decreed to look down on the *English* Nation with so gracious a regard) be at the same time equally honour'd together with the almighty Confessor, we enact, decree, and ordain that every Year for the future the said twenty fifth Day of *October*, in memory of so notable a Deed be every where throughout our Province celebrated with nine Lessons, the three first whereof shall be the proper Lessons for Saints *Crispin* and *Crispinian*, the three middle ones for the Translation of Saint *John* aforesaid; and the three last out of the ² Exposition of the Gospel for several Martyrs, with the Service accustomed in such Cases, according to the use of *Sarum*. Our will therefore is, and we firmly command and injoin you duly to publish our said Statute and Ordinance throughout the City and Diocese of *London*, and cause the said Feasts yearly to be celebrated for the future: And command all and singular our Brethren, and Suffragans (whom we also command by the Tenour of these Presents) that they do celebrate the said Feasts in manner aforesaid, and cause them to be so celebrated for the future throughout their Cities and Dioceses. And do ye certify us by your Letters Patents containing a Copy of these Presents, sign'd with the Seal of your Office, of what you have done in the Premises before the Feast of the Purification of the Blessed Virgin *Mary* next to come. Dated in our Manor of *Otteford* under our Seal *ad causas*, on the seventeenth Day

² In the Office *Commune Plurimorum Martyrum*, part of the sixth of *St. Luke* is read, and presently follows the Glōs of *Bede* upon it.

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of *December* in the Year of our Lord 1416, and of our Translation the third.

In the Year 1421. Archbishop *Chichley* reinforced the Constitution of Archbishop *Sudbury* made 1378. concerning the Salaries of stipendiary Priests: The Mandate for publishing it is extant. *Sir H. S.* vol. 2. p. 678^a.

* Here *L.* leaves us, for he ended his Work on *Whitsun-Eve* 1430, as he himself tells us in the last Page of his *Gloss*.

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Archbishop Chichley's Constitution against the Auncel Weight.

Sir H. S. vol. 2. p. 687.

A Constitution made by the venerable Father *Lat.* in *Christ* the Lord, *Henry Chichley* Archbishop of *Canterbury*, in the Convocation of the Prelates and Clergy of the Province of *Canterbury*, begun in the Cathedral Church of *St. Paul's London*, *Febr. 20, A. D. 1430.* for abolishing the Weight call'd Auncel Weight.

The Wickedness of the declining World waxing wanton in an hideous Manner against the Constitutions and Admonitions of the Ancients, is violently carried to what is forbidden; insomuch that unless the rigor of Discipline did by the diligence of Pastors restrain those whom the fear of God does not reclaim from Evil, they would through a Presumption of Impunity, and in Contempt of the Laws of God and Man run down the Precipice of Vice. Publick Fame, and certain Experience assure us, that ther are many trickish Chapmen

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men in some Cities, Boroughs and other Places of our Province, who without regard to their Salvation, use to buy of simple Folk and others Wooll, Flax, Honey and Wax, and other Necessaries by a greater Measure and greater Weight commonly call'd ^b *le Auncell*, otherwise *Scheft*, or *Pounder*, in a fraudulent manner; and to sell to the same and others Iron, Steel, Pitch and Rosin, and other Commodities by lesser Measure and Weights call'd *Above de Boys*, otherwise *Lygging Wlygtye* to the great hazard of their Souls, and the robbing of the Poor, and such simple Folk, and the intolerable injury of others who do not observe, that the said Auncel Weight is [so] vulgarly call'd on account of some hidden Falsties, and Frauds therein used. It is not only forbidden by the Divine Law, which says, that *a false Balance is abomination with God*, but also by the Canonical Constitutions of the Fathers in general, and by Royal Statutes also under the Pains of forfeiting of all that has been ^c purchas'd by that Weight, and of Imprisonment for ^d two Years, it is by name and specially forbidden: Nor do they fear the Sentence of Excommunication solemnly fulminated by all the Archbishops and Bi-

^b This seems plainly to be a *French* Name, and by what follows it appears that the Constitutors thought the Name to imply something of Deceit; therefore our Etymologists have not hit the Mark; and I am not well enough skill'd in the *French* Tongue to offer at a new Etymology. *L.* would have said nothing to this Constitution if it had come within the Date of his Work; for he professedly omits Temporal Constitutions, excepting the *Articuli Cleri*.

^c *Lat. optorum*, but it should be *emptorum* or *obtenturum*, see Stat. 13. *Rich.* 2. c. 9 Sir *H. S's* Copy is full of Errata throughout.

^d 'Tis but six Months by the Statute last nam'd, and till they make Fine to the King by Stat. 14. *Ed.* 3. c. 12. one Year by Stat. 27. *Ed.* 3. c. 10.

shops

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shops of *England*, and often confirm'd by the Apostolical See (as is said expressly in the Constitutions Provincial of ^e *John Peckham* of good Memory) against all and singular who transgress the great Charter of the Liberties of *England*, or any Article thereof in Word, Deed or Advice: In which ^f Charter it is said among other things, that ther is to be but one Measure, and one Weight throughout the Kingdom. Nay what is more to be lamented, such crafty Chapmen to multiply their Errors, while they endeavour not to be publickly convicted, either by right or wrong, of the notorious Abuse of the said prohibited Auncel-weight, do twice, thrice, or oftner in the Year damnably incurr the horrid Crime of Perjury, and execrably lead their Complices into it, *viz.* when they are judicially onerated by an Oath made by laying their Hands on holy Things to tell the whole Truth by the Officers of our Lord the King, the Justices of the Peace, Clerks of the Market, Confiscators, Escheators, and others concerning their using, or rather abusing the said Weight, when they make special enquiry in every of their Sessions; yet they do knowingly and wilfully conceal it, and cause it to be conceal'd by others bound with a like Oath in the Sessions of such Judges and Officers of the King, or other Courts of Temporal Lords by their Threats and Terrors. And all these Men involv'd in so many and great Crimes, but making no account of them under pretence of a rooted Custom, do impudently intrude upon the Sacraments of the Church without any intention of making Satisfaction for what they have gotten by these evil Means, or of leaving such their Sins, to the grievous hazard of their own Souls, and the pernicious Example of others.

^e See *Const. of Peckham* 3. *A.D.* 1279.

^f See *Magna Charta*, Art. 25.

And

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And tho' we have several times sufficiently and legally admonish'd all and singular the Transgressors to desist from the said Crimes, and caused them to be admonish'd by our Suffragans in the Spirit of Lenity under pain of the greater Excommunication; yet few have hitherto minded to obey, and many, nay, to our Grief, almost all blinded with Covetousness & — do obstinately with hardened Minds neglect to decline from the roads of their old Sins. Therefore that we may not seem to pass by such notorious, enormous Excesses of our Sons with connivance, so that their Blood should be requir'd at our Hands (which God forbid) desiring to consult the health of Souls by a fit remedy against the Premises, supported with the Authority of our last Provincial Council, we enact, ordain, and will that all and singular our Subjects of the Province of *Canterbury*, that shall after the Publication of these Presents knowingly use, or cause to be used any Weight notably differing from the King's Standard, especially the Weight vulgarly called Auncel, Scheft, or Pounder, or any of them, or knowingly, obstinately, and rashly keep it by them in a clancular manner, do *ipso facto* incur the Sentence of the greater Excommunication: And we do specially reserve the Absolution of them to the Ordinaries of the Places, or their Penitentiaries duly empower'd in this behalf. Farther, that the Crimes of these Transgressors may be the more avoided by the Solemnity of the Denunciation, we charge, with the Approbation of the said Provincial Council, that all and singular the said Transgressors be publicly in general denounc'd excommunicate in every Cathedral, and Parish Church, and Chapel (in which Divine Offices are celebrated, as in Churches) of

& The Words omitted are *dum Sitientes quæstum prorsus non desiderant.*

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our Province aforesaid ^h four times in the Year among the other Articles of the greater Excommunication, with an intimation that the Absolution of them is reserved as aforesaid.

^h Lat. *Quatinus in anno 1. I read quater in annis*, according to the third Constitution of *Peckham* just before cited. But this Archbishop afterwards reduced it to three times a Year, as you will see by his next Constitution.

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Archbishop Chichley's Sentences of Excommunication.

Oxford Copy, p. 73.

HENRY by Divine Permission Archbishop *Lat.*
of *Canterbury*, Primate of A. E. Legate of the Apostolical See; to our venerable Brother Robert by the Grace of God Bishop of *London*; or to his Vicar-general of the Spiritualities (he himself being in Parts remote) Health, and a continual increase of sincere Love: It was lately set forth, and grievously complain'd of by the Clergy of our Province of *Canterbury*, in our Provincial Council celebrated in the Cathedral Church of *St. Paul's* on the Morrow of *St. Faith* the Virgin, the seventh Day of *October* last, before us, our Brethren, and Fellow-Bishops, that tho' it had been providently ordain'd of old by our Predecessors, and particularly by *John Peckham* of famous Memory in the Provincial Council of *Reading*, that those Cases and Articles, in which the Sentence of the greater Excommunication is *ipso facto* pass'd by the Provincial Constitution, ought publickly to be declar'd in the Vulgar Tongue in
L 1 every

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every Parish Church of our Province on Days appointed for this purpose; yet that this wholesome observance of publishing and declaring these Cases, is long since grown into disuse and wholly forgotten or neglected, by means whereof many fall into such Sentences while they are ignorant of it: Therefore we were very earnestly requested on the behalf of the Clergy aforesaid, that we would decree these Cases and Articles solemnly to be published and declar'd on some convenient Days in every Church of our Province, by Authority of the said Council. We therefore being dispos'd to favour the Petitions of the said Clergy, as just and reasonable, decreed with consent of you and other our Brethren, Fellow-Bishops and Suffragans assembled together, that the said Cases and Articles which were then read in full Council, and ratified by all, be publickly declar'd at least on three *Lord's-days* in the Year, that is, on the first *Lord's-day* in *Lent*, the first *Lord's-day* after *Trinity*, and the first *Lord's-day* in *Advent*, thro' all the Cathedral and Parish-Churches of our said Province, fully, perfectly and distinctly at high Mass, when the greatest number of People are present in the said Churches. We therefore charge it upon, and command you our Brother, by the Tenour of these Presents, and injoin you in virtue of holy Obedience, that ye duly publish or cause to be publish'd these our Letters, with the said Cases and Articles which we have annex'd to these Presents, in your Cathedral Church, and in every Parochial Church throughout your City and Diocese, by our Authority on every *Lord's-day* aforesaid; or if it cannot be done on any of those *Lord's-days* by reason of any lawful Impediment, then on the *Lord's-day* next following at least, in manner before mention'd; and take care to transmit them to every our Fellow-Bishop and Suffragan, by your Letters containing

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containing a Copy of these Presents and of the said Articles with all expedition: And firmly injoin them, that they cause them publickly, clearly and distinctly to be read and declar'd in the Vulgar Tongue at high Mass, in every Cathedral and Parochial Church of their Cities and Dioceses, every Year on the three *Lord's-days* aforesaid at least, if ther be no lawful Impediment; or otherwise on the *Lord's-day* on which it may be conveniently done next following. And do ye certify us of what ye have done in the Premisses in a distinct Manner, by your Letters containing a Copy of these, before the Feast of *Pentecost* next to come: And command every of our Brethren aforesaid, that they do not neglect to certify us in like Manner by their Letters, before the Feast of *St. Michael* next following. Dated in our Manor of *Maidstone*, the 23^d Day of *February*, in the Year of our Lord 1434, and of our Translation the twenty first.

Here follows the Form of publishing the Articles of the Sentence of Excommunication in the Vulgar Tongue.

[F] Write yet be accursyd that presume to
take away oꝛ pryve any Chirche of
the right pat longyth vereto, oꝛ else agayne
ryght

ⁱ F is not in the *Oxford* Copy. It was common for Writers to leave out the first Letter of any Book, Instrument, or Chapter in order to have it written in a more elegant manner, and embellish'd with Pictures, or Flourishes by the Hand of an Illuminator; and many Books remain imperfect in this Point, having never had the luck to be finish'd with such Illuminations.

N. B. Several of these Articles were retracted by Archbishop *Peckham* himself soon after they were first order'd to be publish'd: Yet it seems evident that these

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Articles, notwithstanding *Peckham's* Retraction were always deem'd to be in force; and indeed he himself two or three Years after publish'd them again tho' in other Words, by Authority of Synod. It is clear Archbishop *Chichley* thought that Retraction to be no just Objection against them. And *Lindwood* Principal Official of this Archbishop, and which is more the Principal Canonist that this Nation ever produced, thought them to be in force: For he glosses on them without taking any notice of the Retraction, p. 353. and sums up his Constitution to the same purpose at *Lambeth* 1281. and glosses on that Abridgment of his own. It is farther observable, that tho' *Chichley* omit some of the *Reading* Articles, yet none of those which were retracted.

ryght to stroy, breke or stroylle the Liberties of the Chirche. And yoo that parchelles any maner of Letterys from any Temporal Courte, to lette any Proesse of Spiritual Juggys in such causes as longyth to Spiritual Court: And also yoo that with Puple and Noysse come to Spiritual Courte, and put the Juggys or Parties yat there pletts in feer, or else for als moche as the Partyes sew in Spiritual Court such Causes as longyth to Spiritual Courte, make or procure any of the said Partyes, Advocats, Procurators or other Wynysteres of Spiritual Courte to be enditt or resyt, or any wise be verpd. Also yei yat presume to distroy or trobyll the Case and Tranquillite of the Kynge and hys Reame of Englonde, and yoo yat wraungfully withehold any ryght yat longythe to the Kynge. Also all yoo yat wetyngly berys fals wittnes, or procure fals wittnes to be born, or else wetingly bying forthe in jugment fals wittnes to let
ryht

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ryht Matrimonie, or procure bytheftynge of any Person. And also all yoo pat of Malice put any crime of Sklander to any Man, or Woman the whiche was not sklanderit byfore amonge gude Men, and worthy, so that he or sche schulde be caulpyde to Jugment, a Purgacion assigned to hym on the said Crime, or grevyd in any other wise: And also yoo pat resyde the kyngs Writtyts, or Mandements to take such as ben acursyde for nede, or favour, or any other wilful Causys yei do nott dew execucion thereof, and yoo pat letts such execucion, or procure wrongefull delyveraunce of such pat ben acursyde. And all yoo pat take wastynge or withedwratynge owte of House, Maners, Granges or ovyr Places of Archbyschopes, Byschopes, or any other Person of Holy Chirche azene their Will, or azene the Will of suche Persons pat ben ordeynt and deputede keepers thereof. Also all yoo pat drawe the owte of Seyntory any Man or Woman pat slepythe to Chirche, or Chirche Yarde, or Cloyster, for gyfte or inmynte of Holy Chirche, or let or forbyde necessary Lyfelode to be gyftynge to suche Persons beynginge witheinne Seyntory. And yoo pat putt violent Bonds on Prestre or on Clerke. Also all yoo pat use any Wycheecraft, or gife thereto faith or credence, ande all fals Jurors, and other pat be forsworne on Boke, or oft any other holy Thing. And all yoo pat dothe Symonye or Sacrilege, Hereticks, Lollars, and Sawtowers of panie famole

L 1 3

Chesys,

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Thesps, Robbers, Reffers and Rabyshers, Fallaxas of the Poppys, or the Kings, or off any Ordinary of Holy Chirche. And yett letten execution of trewe Testaments or lasse Wills, and withholders of Tyth or any other Spirituall Commoditys pat longyth to Holy Chirche. ^k Amen.

^h The Reader will observe that they who use the Auncel Weight are not mention'd in this general Excommunication: Yet they are said to be anathematiz'd in a publick Excommunication still extant in the Register of *Bath*, *A. D.* 1434.

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Archbishop Chichley's Constitution for augmenting Vicarages.

[*Lat.* **T**HE Constitution of *Henry Chichley* Archbishop of *Canterbury*, made in a Provincial Council begun the first Day of *November*, in the Year of our Lord 1439, in the eighteenth Year of *Henry VI* King of *England* and *France*, in which Year *Felix IV* alias *V*, was by the Council of *Basil* substituted Pope of *Rome*, in the stead of *Eugenius IV* who was depos'd.

Because it is provided by the Common Law (on account of the long continuance of Suits, which by reason of the nice observance of the Judiciary Method, use to be burdensome to the Parties, especially if poor) that in some Cases Proceedings may be without the Noise and Solemnity of Judicature in a simple plain Manner; and ther are in our Province of *Canterbury*, many Vicarages belonging to rich Churches, yet so small as not to afford

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afford even a slender Livelyhood to their Vicars, by reason of the unwonted Lukewarmness of the ¹ Devotion of the People: Yet if they commence Suit before the Ordinaries of the Places for the Augmentation of their Portion, so many Difficulties are raised against them thro' the indirect Arts of Exceptions and Delays by the Rec-tors, or Proprietors of those Churches, that they are compell'd to desist from their just Prosecutions after they have begun, by reason of Poverty and Despair of carrying their Cause; we ordain with the provident Deliberation of the present Council, that in the case of Augmentations of small Vicarages (not much ^m unlike some of the aforesaid Cases) Proceedings may be Summary and in a plain Manner, without the Noise and Solemnity of Judicature, if the Plaintiff require it. We add, that Ordinaries admit Vicars (if they will affirm upon Oath that they are very poor) to prosecute their Causes for the Augmentations of their Vicarages in *Forma Pauperum*, and do their Office in this respect *gratis* and freely, and cause the Advocates, Proctors and other Officers and Scribes of their Courts and Consistories, to defend and act for them *gratis*, and let them take care to assign such Portions to the said Vicars, as they see reasonable in proportion to the Revenues of the Church, and to the Burdens which

¹ In making Offerings which was originally a main Branch of the Vicars subsistence. *Wickliff's* Doctrine had well nigh dried up this Stream.

^m The most usual summary Causes are those relating to the Probate of Wills; and any poor Heir at Law may demand to have the Will by which he is cut off proved with Solemnity, that is by the Oaths of sufficient Witnesses, and the Executor is bound to bear the charge of the Process, if the Heir create no unnecessary delays: And this may be done tho' the Executor have before proved the Will in common form.

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belong to the Vicars; and that no less Portion, than that of twelve Marks in the whole, be assign'd to any Vicar, if the whole profit of that Church, whose Vicarage is to be augmented, do amount to that Sum. And lest the Ordinaries be any wise obstructed in the Execution of their Office, under pretence of the difficulty of citing such Rectors and Proprietors, who sometimes dwell out of the Dioceses in which those Vicarages, whose Augmentations are disputed, lie; we ordain by Authority of the said Council, that in Causes concerning such Augmentations, the aforesaid Rectors and Proprietors, be as strictly oblig'd to appear by virtue of Citations publickly and solemnly made in the Churches (whose Rectors and Proprietors live out of the Diocese of the Ordinary, who orders such Citation to be made) on some *Lord's-day* or Festival, while the greater, or a notable Number of the People is present there; as if they had been Personally served with the said Citations.

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P R E F A C E. *Archbishop Kemp's Constitutions at York.*

THIS Year John Kemp *Archbishop of York, Cardinal of St. Balbina in a Provincial Synod at York made the following Constitutions, or rather made one, and transcribed another from the Constitutions of our Province, and enacted both. We have them only as they are register'd by Archbishop Nevil, at the end of his Constitutions in the Year 1466, after Kemp had been translated to the See of Canterbury, and had been dead twelve Years. Archbishop Nevil's Words here follow.*

A. D.

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*Archbishop Kemp's Constitutions at
York.*

UPON examining the Registries of *John* late *Lat.*
Priest Cardinal of the Church of *Rome* by
the Title of *St. Balbina*, and our Predecessor of
worthy Memory, we remember that the under-
written Constitutions were duly and lawfully
made by him, yet not inserted or incorporated
into the Book of Statutes. We will therefore,
that they be publish'd and incorporated among
the other Constitutions, and firmly observed by all
the Subjects of our Province.

1. *The first is the fifth Constitution of Archbishop
Winchelsey, 1307. save that it has a Preface put
to it, in which I see nothing singular, or observable.
Nor are the Variations very considerable as to the body
of the Constitution. But instead of Stipendiary Priests,
Archbishop Kemp calls them^a Chantry Priests. He
mentions not the Punishment of the greater Excom-
munication, in case they purloin the Incumbent's
Dues, but obliges them to swear that they will not.
The Oath was to be taken by touching the Gospels:
He adds, that these Priests must read the Lessons,
Epistles, and Gospels at High Mass at the Assign-
ment of the Curates. After which are added some
Words, which seem to me unintelligible. The method
seems rather taken from the second Constitution at-
tributed to Mepham, Sir H. S. p. 501. And ther is
the following Addition in both, viz. That these
Priests, and such as are Curates spend their vacant
Hours at their Books, and not at Taverns, Shews,
Stews, or unlawful, hurtful Games.*

2. *Being*

^a This Name was most usual in the times just prece-
ding the Suppression of Monasteries, and did especially
denote

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denote such Priests as had a settled Estate, or Salary for Life, on Condition of singing Mass constantly at such an Altar for the Founder and Family.

2. Being inform'd by unanimous Report, and by Experience, that some Abbots, Priors, (that have no proper Abbots) Hospitallers, and other Administrators of Church Goods, do sell and alienate the Goods of such Monasteries, Priors, and other Ecclesiastical Places (over which they preside, and to whose profit they should contribute) and particularly the Trees of their Woodlands, ceduous or not ceduous, Rents, Possessions, and their other Rights, to the desolation of the said Ecclesiastical Places: And do likewise sell, or grant ° Corrodies, Pensions, and Liveries for Life, or a long Term: And do also let to farm Churches appropriated to themselves and their Monasteries; and do convert the ready Money they receive to their own uses; and do bring themselves their Monasteries, and Successors, and their Rights, Rents, and Possessions under Engagements, and expose them to be distress'd by secular Men; and do give other Goods without Measure to their Acquaintance and Friends; by occasion whereof their Monasteries, Houses, and Places thereunto belonging are under great want of repair, and ready to fall, Divine Worship in such Places is diminish'd, regular Observances are neglected, and the Goods of such Places are wasted, and to our Grief consum'd; we *John* Archbishop earnestly desiring to provide for the Indemnity of Monasteries, Priors, Hospitals, and other Religious

° Corrodies, Pensions, and Liveries here have much the same Signification, *viz.* a certain daily, weekly, monthly, or quarterly Payment in Victuals, Clothing, or Money. *Corrody* is still used for a Place in an Hospital, particularly in those about *Canterbury*. It has other Significations in the Law-Books.

Places

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Places in the Province of *York*, and to apply a seasonable remedy in these Cases, do with the Advice and Council of our Suffragans enact, and ordain with a saving to the Provisions, Statutes, Constitutions, Ordinances, and Remedies concerning such Sales, Alienations, and Grants that have been made by the Authority of the ancient Fathers, that when a Sale of Trees, Woodlands, ceduous or not ceduous, in any great quantity, or the Grant of Rights, Rents, Possessions, Pensions, Corrodies, or Liveries for the Life of any Person, or for a long Term is to be made, a diligent and mature Consultation of two Days at least between the Abbot and Convent, or the Prior (where ther is no proper Abbot) and the Convent ought first to be had; and if upon such solemn Consultation, it seem good to the Abbot or Prior, with his Convent, that such Sales, Alienations, Grants of Liveries, or taking up of Money, be necessary, advantageous, or seasonable to their Monasteries, Priories or other Places; then let them consult concerning the Alienations, Sales and Grants aforesaid, with us in our own Diocese, and with our Suffragans in their Dioceses, and with our and their Successors in all Times to come; and after Licence and Authority first had from us, or our Suffragans in their [several] Dioceses, let them have leave to make the said Sales and Grants. But if the Abbots, Priors or Hospitallers aforesaid, contrary to this our Ordinance and Provision, do make such Sales, Alienations or Grants, not having first Authority, let such Sales, Alienations and Grants, whether for Life, or perpetual, ^p be utterly

^p The Prelates might spend their Breath to no purpose on this Account; for 'tis certain that such Sales and Alienations, were good at Common-Law, unless where the King was Founder; but they were always forbidden

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forbidden and null'd by the Canon-Law. During the Times of Popery, Prelates being under the Awe of Canons, did tolerably well preserve their Estates; but when the Canon-Law was once thrown out of Doors, it is evident by too many Instances, that the Prelates would soon have reduc'd their Dignities to a Primitive Poverty, if Temporal Statutes had not tied their Hands.

terly null and void. And yet let the said Abbots, Priors and Hospitallers, who infringe, violate or contemn this our Constitution, be *ipso facto* suspended from celebration of Divine Offices, and Administration of the Goods of the Monasteries, and from their Dignity and Office for ever; beside ⁹ other Penalties in this Case provided in diverse Ordinances.

⁹ Excommunication was the Punishment inflicted by the Canon-Law, both on the Grantor and Grantee in this Case. See *Decretal. L. 3. Tit. 13. NB.* ther is in Sir H. S. a Bull of Pope Paul III, bearing date 1467, which cancels all such Alienations, Infeodations, &c. and deprives the Authors of them of their Dignities. *vol. 2. p. 709.* But we may certainly conclude, that the Alienations made about and after these Times, were justified by our Temporal Courts, and were the Precedents by which King Henry VIII's. Agents proceeded, when they did with Menaces and artificial Practices, prevail with Heads of Convents to surrender their Estates to the Crown.

Wicklif's Party being now silenc'd by the Awe of Temporal and Ecclesiastical Authority, and Matters of Discipline being firmly settled according to the Romish Scheme, our Archbishops and Convocations had little of moment to do, but lest they should seem to meet for no purpose at all, they renew old Provisions for keeping the Feast of King Edward the Confessor.

A. D.

A. D. MCCCCXLV.

Archbishop Stafford's Constitution.

The Oxford Edition, p. 75. 1

TH E Constitution Provincial of the Lord *Lat.*
John Stafford Archbishop of *Canterbury*, remarkable for his Family and Merits for solemnly celebrating the Feast of *St. Edward*, King and Confessor, made in the Year of our Lord 1445, *Henry VI.* reigning in *England*, *Felix V.* being Pope of *Rome*, *Eugenius IV.* being depos'd by the Council of *Basil*.

John by Divine Permission Archbishop of *Canterbury*, Primate of *A. E.* and Legate of the Apostolical See, to our venerable Brother the Lord *Thomas*, by the Grace of God Bishop of *Ely*, Health and Brotherly Charity in the Lord. Tho' we are divinely admonish'd by the Holy *David*, the Man after God's own Heart, [†] *to praise God in his Saints*; at whose Intercession God confirms Peace, takes away Pestilence and Famine, establishes Kingdoms, and gives Victories, and very often by a miraculous Power imparts Health to desperate Diseases; yet every Church is bound to venerate and extol with special Praises, and with a Prerogative of Devotion, those Saints with whose peculiar Patronage and Miracles she is illustrated: Therefore, that the Divine Majesty may be more amply glorified in the Saints in our Holy Mother the *English* Church, which is irradiated

[†] *Psal. cl. i. Sanctis* without a Substantive, was taken to signify the Saints; but it seems better to understand *locis*.

by

MCCCCXLVI. *P. Eugene's Present*

by the Prayers and frequent Miracles of the most blessed *Edward* Confessor and King, and by whose Merits Histories say, the Kingdom of *England* was formerly deliver'd from the cruelty of Pagans, we with the unanimous Consent and Advice of our Brethren in our last Convocation, and also at the repeated Instances of our most devout and Christian King our Supreme Lord, (who doubts not but that his Kingdom and Royalty is defended by the Intercession and Patronage of this most glorious King and Confessor) have decreed, ordain'd and enacted, that the Feast of the Translation of the said *St. Edward*, be celebrated throughout our Province of *Canterbury* every Year in a solemn Manner for the future: And do ye cause it to be celebrated in the City and Diocese, as well by Clerks as Laymen. And do ye certify us of what ye have done in the Premisses, by your Letters containing a Copy of these sign'd with your Seal, before the Feast of all Saints next coming. Dated in our Manor of *Croyden*, the first Day of *October*, in the Year of our Lord 1445, and of our Translation the third.

A. D. MCCCCXLVI.

Pope Eugene's Present to King Henry VI.

FOR want of better Memorials at this Time, my Reader will forgive me, if I for once present him with a most egregious Trifle as ever yet came from Rome to England, not indeed at it's full length, (for the Latin contains more than a Page in Folio, Sir S. H. vol. 2. p. 690.) but so that every Reader may say he has enough on it.

Eugenius

to K. Henry VI. MCCCCXLVI.

Eugenius Bishop, Servant of the Servants of Lat.
God, to our most dear Son in Christ, *Henry* the
illustrious King of *England*, Health and Apo-
stolical Benediction. The Reasons of some most
solemn Ceremonies celebrated by the *Roman* Pon-
tif, are too deep sometimes to be understood, not
only by the Vulgar, but by the moderately know-
ing. Being about to honour your Highness with
a famous Present, we think it not unworth our
while, to say something by way of Preface.
Among many things which the Church does in
the Mystical Way during Lent, — on that *Lord's-*
day which is the seventh from Septuagesima
— when the Introit to the Mass, is, *Rejoice O Je-*
rusalem, &c. — when the Faithful People are
come to the middle of the Lenten Fast — the *Ro-*
man Pontif, when he is going to Church and re-
turning from thence, carries in his Hand in the
sight of the People a golden Rose; this Rose the
Pontif uses to give to some Prince then in the
Court, whom he specially esteems for his Nobil-
ity, Power and Merit. The Prince adorn'd with
so great a Present, and attended with a great
Retinue of Cardinals and Prelates, goes in Pomp
thro' the Streets and Lanes of the City, that no
one may be hinder'd by Sex, Weakness or
Business, from partaking of this common joy-
ful Sight. We have presented four Princes in
our time with such a Rose, two Kings of the
Romans, one of *Castile*, a fourth of *Arragon*, with
an intention to excite and impel them against In-
fidels that are Enemies to *Christ*; that if we could
not move them by our Words, we might do it by
their Religious regard for an Apostolical Present.
Having lately consider'd these Things, and the
great Faith and Devotion of your Serenity toward
us and the Church of *Rome*, we thought it not
only decent, but just, that you should be decora-
ted

MCCCCXLVI. *P. Eugene's Present*

ted with the same Gift: Because last year at our Request you not only granted a supply of the Tenth of your Kingdom against the *Turks*, the Enemies of *Christ*, but promised an Auxiliary Force of arm'd Men. And we hope that this Rose will more effectually dispose you to assist the Church of *Rome* against the *Barbarians*, to your own perpetual Glory.—Nor let any one think that this is an Invention of ours on purpose to prevail with you, since it is a a traditionary Observance of the *Roman* Pontifs, that the King of the *Romans* (from whom the Church always expects due Aid) be crowned on * no other Day but the *Lord's-day* aforesaid, and after such a Rose presented to him. Therefore whereas we now send to that Kingdom of yours our beloved Son Master *Lodowick de Cardona*, one who belongs to our Bedchamber, as a Messenger to demand the Tenth imposed last year on account of the *Turks*; we do in the Lord exhort and require your Serenity, that you do him all necessary Favours to this purpose: And let your Highness begin to consider of other Aids to be granted us toward so great an Expedition. Dated at *St. Peter's Rome* in the Year of Incarnation 1446. eighth Kal. of *July*, and of our Pontificate the sixteenth.

* I read *nulla alia die*, not *multa*. &c.

N. B. *Pope Julius the second in the Year 1510. sent to Archbishop Warham a Golden Rose tinged with Holy Chrism, perfum'd with Musk, blessed with his own Hands, to be presented to King Henry VIII. by that Archbishop at High-Mass celebrated by the Archbishop himself with certain Ceremonies express'd in a Schedule annex to his Letters. King Henry VIII. was then a young Prince, and might be pleased with such Toys; but he afterwards learned to despise them and their Donor.*

A. D.

A. D. MCCCCLIV.

PREFACE. *Archbishop Bouchier's
Letter for Processions.*

WE have before seen in the Year 1416, how the Prelates before the Reformation made Provision for their Festa repentina, occasional Thanksgivings, without composing new Offices. And it is scarce to be conceiv'd, that any occasion for such Thanksgivings can happen, but that ther is a competent Provision already made for it by our Liturgy. In the following Letters of Archbishop Bouchier, we may observe how they order'd Matters in case of extraordinary Humiliation; and particularly it deserves our notice, that they drew up no new Offices, or Prayers, but only required some old Forms more frequently to be used: they did not think their Authority sufficient absolutely to injoin the use of these Forms, but only granted Indulgences to them who comply'd. The Convocation indeed in the former case does peremptorily require all to use the old Forms in a new manner, but the Archbishop acting by himself, does not goe so far. I can't but think that our Church has made a better Provision in this Case: For every Friday is an establish'd Fast, and the Commination Service may be used, whenever the Ordinary appoints: And this with the Prayer on the Occasion, whatever it be, which may be added out of the Forms next after the Litany, prescrib'd to be used before the two final Prayers of the Liturgy, would make a better Office for a publick Fast, than I have ever yet seen in that great number that have been with so much Parade distributed to every Parish in the Nation; every one of which Offices costs the Nation five hundred Pounds at least in Fees to the Apparitors, beside the charge of the Government in printing of them.

M m

A. D.

A. D. MCCCCLIV.

*Archbishop Bouchier's Letter for
Processions.*

Sir H. S. vol. 2. p. 691.

Lat. **T**HOMAS by Divine Permission Archbishop of *Canterbury*, Primate of A. E. Legate of the Apostolical See, to our venerable Brother *Thomas* by the Grace of God Bishop of *London*, Health, and a continual increase of brotherly Love. [*Here I omit a whole Page, which is only a Prefatory Narrative of the occasion of these Letters, and which is sufficiently tho' briefly express'd in what follows.*] That this our happy Expedition against the [*Turks*] Persecutors of our Orthodox Faith now begun, and the Health, and Condition of the most Christian Prince our Lord the King, and of the Common-weal of this Kingdom may daily be improv'd, and the sooner brought to Perfection, and those ^{*} internal Evils may be happily compos'd by the Inspiration of Divine Grace, we have decreed that certain solemn Processions be for one year celebrated within our Province of *Canterbury* in the Cathedral, Regular, Collegiate, and other Churches. Therefore we give it in Charge, and command you our Brother, that ye do injoin all and singular our Brethren, and Fellow-Bishops, the Suffragans of our Church of *Canterbury*, in our stead, and by our Authority, and with all speed by your Letters containing a Copy of these, that they do admonish, and persuade, or cause to be admonish'd and persuaded, all their Subjects both Clerks, and Laicks in their Cathe-

^{*} The internal Evils mention'd here, and below, were the Commotions between the *Torkists*, and *Lancastrians*, which now began to break out with some Violence.

dral,

Bourchier's *Letter*, &c. MCCCCLIV.

dral, Conventual, and Collegiate Churches (whether Regular, or Secular;) and also in the Parish Churches of their Cities and Dioceses on the *Lord's-days* and Festivals, that they celebrate Processions in a most devout, affectionate, and solemn manner, and sing or say the Litanies with other Suffrages that are seasonable and acceptable to God, as well on those *Lord's-days* and Festivals, as on every *Wednesday*, and *Friday* with all Humility of Heart, for the driving away and removing far from the Bounds of the Christian World the wicked Powers of them that are Enemies to the Christian Orthodox Faith, and its Professors, and for the total extinguishing and (may God so please) the exterminating of them; and for the restoring and perfecting the Welfare of our Lord the King, and this famous Kingdom of *England*, and for the daily increase and improvement of their Prosperity; and for the averting and dispelling, removing and avoiding with all possible speed those Difficulties and Dangers now imminent on the King, and Kingdom, and those " Evils from abroad with which we are beset and encompass'd: And that they do farther exhort the People subject to them, that they do by Day and Night, at their convenient leisure, continue instant in their Prayers with all Humility of Heart, for the averting these Evils from us, and from the whole Christian World. And do ye, dear Brother, cause the same to be done in your City and Diocese by those who belong to you, in an humble devout manner on the like Days, Times and Places. And that they may be excited to these Works of Devotion with the greater frequency and zeal, we of the im-

" The Evils from abroad were, I suppose, the Invasions of the *French* who had gain'd great part of the old *English* Territories on the Continent, and now were bringing a War to our own Homes.

MCCCCLIV. Bouchier's *Letter*

menſe Mercy of God, and confiſing in the Merits and Prayers of the moſt Bleſſed Virgin *Mary*, his Mother, and of the Bleſſed *Peter* and *Paul*, his Apoſtles, and of Saints *Alphege* and *Thomas*, Martyrs, our Patrons, and of all the Saints, do graciously grant forty Days * Indulgence by theſe Preſents, to all and every one of our Subjects who repents of his Sins, and confeſſes them with Contrition, and is preſent on any *Wednesday* or *Friday* within the ſaid Year at the making of ſuch Proceſſion, as is aforeſaid, and intercedes with devout Prayers to God for the Premiſſes, or that faſts on the Days aforeſaid, or on any Day within the ſame Year; or that ſays Maſs, or ſeven Pſalms with the Litany, or a Nocturnal of *David's* Pſalter, or the Pſalter of the Bleſſed Virgin *Mary*, ſo called, [or] that goes in Pilgrimage to any place, commonly reſorted to for ſuch Purpoſes, or gives any thing in Alms, out of reverence to God, or his Saints, and that duly confeſſes his Sins in order to his offering theſe Sacrifices in a more acceptable manner to God, for as often as they perform any of the Premiſſes. And we requeſt you, and your Brethren that ye grant ſuch Indulgences to your and their Subjects doing as aforeſaid, as are wont to be granted. Dated in our Manor of *Croydon* on the 19th Day of *January* in the Year of our Lord 1454, and of our Tranſlation the firſt.

We

* Theſe Indulgences were one of the moſt ſtupid Inventions that were ever ſet on foot by the Court of *Rome*: And the Inventors themſelves could never explain the meaning of them: For they ever declar'd, that neither the Pope, nor *Chriſt Jeſus* himſelf did ever give hopes of Reprobates being freed from Hell-Torments. They tell us it was only a Relaxation of the Temporal Punishment due for Sin, and which is to be paid either by Penance here, or in Purgatory hereafter.

And

for Processions. MCCCCLIV.

And this might in some measure clear the matter as to the Bishops Indulgence, which was but for thirty Days at most, and as to the Archbishops, which was but for fifty Days at most. But when the Pope by the pretended Plenitude of Power extended his Indulgences to thousands of Years, this can never be resolv'd into a Relaxation of Penance, unless it could be supposed that a Man could Sin or do Penance for so many Years. After all, their best Casuists advise People to do their Penance, notwithstanding these Indulgences, which is to say, that they would have none to rely on them.

We are not to wonder, that the Archbishop in the Case above did not ask the consent of his Convocation: For he intended not that his Letters should be a peremptory binding Decree but only an earnest Admonition: And when in the year following he sent his Monition to all Rectors, Vicars, Curates, and their Substitutes throughout his Diocese and Province, and particularly to all such as should minister the Word of God to the Clergy and People at St. Paul's Cross, London, to advertise all People that Testaments made, or Matrimony contracted without two or three Witnesses, and that one of the Witnesses to the Will be a Parish Priest, or the proper Curate, if it may conveniently be, he had no occasion to take the advice of his Convocation in this Case, because what he required was no more than what the Canon Law demanded.

A. D. MCCCCLXII.

*Province of York receives the Provincials
of Canterbury.*

William Booth Lord Archbishop of York held a Convocation in his Cathedral Church, in which the following Constitution was made. See the present

MCCCCLXIII. Bouchier's *Const.*

present Lord Archbishop of Canterbury's State of the Church, p. 374, &c. and the Lord Bishop of Rochester's Rights, &c. of an English Convocation, pag. 47.

Lat. It is to be remember'd that the Prelates and Clergy in Convocation 1462. do unanimously will and grant, that the Effects of the Provincial Constitutions of the Province of *Canterbury* had and observ'd before these times, being no wise repugnant, or prejudicial to the Constitutions of *York* be admitted, but not otherwise, nor in any other manner: And that such Constitutions of the Province of *Canterbury*, and the Effects thereof in manner aforesaid, be inserted among the Constitutions of the Province of *York*, and incorporated to be kept together with them for the future, and be observ'd for Law, [†] as ther is great occasion and as decency requires.

[†] *Lat. Prout indiget, & decet.*

A. D. MCCCCLXIII.

Archbishop Bouchier's Constitutions,

Sir H. S. vol. 2. p. 698.

Lat. **T**HE Constitutions of *Thomas Bouchier* Archbishop of *Canterbury*, Primate of A. E. Legate of the Apostolical See, made in the Cathedral Church of *St. Paul's London*, the Prelates and Clergy of the Province of *Canterbury* being then and there convoked, on the sixth Day of *July*, 1463.

I. Altho' the disposal of all Churches, and of the Rights, Persons, and Things therunto belonging,

Bourchier's *Const.* MCCCCLXIII.

ing, and also of the Goods in pious Places is known by the Testimony of the sacred Canons to belong to the Bishops, and Holiness becomes God's House, and Peaceableness (with due Veneration of him, by whose Peace it was made a Place of Divine Worship) that no disturbance of the Minds of Christians, or execution of the Secular Law be in the Church; yet the Impudence, or rather Rashness of some Secular Officers in the Province of *Canterbury*, forgetful of their own Salvation is grown so abusive to the Church, that Sheriffs, Under-Sheriffs, Bailiffs, ² Serjeants, Beadles and Attendants, by themselves, and their Deputies do compel Persons of both Sexes staying in Churches and Church-yards and other Places, as is said, dedicated to God (perchance) to attend on Prayer, to be arrested and violently torn from thence with the disturbance of Divine Worship; sometimes with fighting, and the Pollution of the Churches under Colour of executing a Secular Office, by means unfit to be used in Churches, to the scandal and detriment of the Churches, and the hazard of their own Souls, and the pernicious Example of others. Now we *Thomas* by Divine Permission Archbishop of *Canterbury*, desiring, as we are bound, to apply a remedy against such Abuses to such as have reprobated the Law of God and his holy Church, and lest we should seem to approve of it, do by Authority of this present Provincial Council ordain, and prohibit any Secular Officer by what Name soever call'd, to arrest in any Civil or Pecuniary Action, or to force out of

² Lat. *Satrapa*. Yet I have ventur'd so to turn it, since it comes between *Ballivi* and *Bedelli*. It is scarce credible how the Latin Tongue was debased by the Ecclesiasticks of this Age. You have the same word below in the same situation, which makes me believe that it is no Error in the Scribe, or Press.

MCCCCLXIII. Bouchier's *Const.*

a Church or any sacred Place, and particularly the Church of St. *Paul's*, *London*, (especially while Divine Service is there celebrated) any Man, or Woman under pain of Excommunication. And if any Sheriff, Under-Sheriff, Mayor, Bailiff, Serjeant, Beadle, Attendant, or other Secular Officer, under whatever Name he passes, be a rash Violator of this our Statute, or give authority, help or consent to such Violation, we will that he do *ipso facto* incurr the Sentence of the greater Excommunication, not to be absolv'd from the same, till they have made competent Satisfaction to the Persons and Churches injur'd. And we make a special reservation of their Absolution to the Diocesans of the Places. And we will that they be bound in the same Sentence, who lay violent Hands even on a Layman in Churches, or other consecrated Places.

2. Altho' in this Catholick and glorious Kingdom of *England* the Preachers of the Word of God have sufficiently consider'd and declaim'd against the new ill-contriv'd Fashions of Apparel of the Clergy and People for several Years, by reproof, reprehension and entreaty, according to the Apostles Doctrine; yet few or none desist from these Abuses, which is much to be lamented. It is fit then that they who are not reclaim'd by divine Love be restrain'd by fear of Punishment. And if we who by divine Permission are set over others to reform them, neglect to reform our selves and Clergy, we fear, lest the People subject to us observing that our Lives and Manners differ from our Sermons, do thence take occasion to distrust our Words, and so be prompted, which God avert, to contemn the Church of *Christ*, and his Ministers, and their sound Doctrine and Authority. Desiring therefore to apply a remedy to this Evil, so far as God enables us, that we may not be to answer
for

Bourchier's *Const.* MCCCCLXIII.

for it at the last Day, we do by our Metropolit-
cal Authority, with the unanimous assent and con-
sent of our venerable Brethren the Lords the Bi-
shops, and of the whole Clergy of the Province
of *Canterbury*, by a Decree of this present Pro-
vincial Council, enact and ordain that no Priest,
or Clerk in Holy Orders, or Beneficed, do pub-
lickly wear any Gown or upper Garment, but
what is close before, and not wholly open, nor
any Bordering of Skins or Furs in the lower
Edges or Circumference: And that no one who
is not graduated in some University, or posselt of
some Ecclesiastick Dignity, do wear a ^a Cap with
a Cape, nor a double Cap, nor a single one with
a Cornet, or a short Hood after the manner
of Prelates and Graduates (excepting only the
Priests and Clerks in the Service of our Lord the
King) or Gold, or any thing gilt on their Girdle,
^b Sword, Dagger, or Purse. And let none of the
abovesaid, nor any Domesticks of an Archbishop,
Bishop, Abbot, Prior, Dean, Archdeacon, or of
any Ecclesiastical Man who serves them for Sti-
pends, or Wages, and especially they who serve
in a Spiritual Office, wear ill-contriv'd Garments
scandalous to the Church, nor ^c Bolsters about
their

^a *Caputium penulatum.* Lat.

^b From hence one would be apt to think that Clergy-
men now wore Swords. The *Oxford* Articles for Re-
formation, *A. D.* 1414, mention *Armigeri promoti*, and
describe them as young Men *Armis insolentes, qui nec
horas dicunt Canonicas, nec habitu vel tonsurâ distinguuntur
à Laicis, qui Præbendas occupant & Capellas.* MS Ben.
Col. No. 183. And again toward the end, they speak
of some as *Clerici nomine, milites habitu, actu neutri.* And
it seems plain, that these Swords, or Daggers were not
forbidden, at least not to them who were in the King's
Service.

^c This word is express'd in *English*, and therefore ther
can be no Mistake in it. It is commonly said, that in
(K iax

MCCCCCLXIII. Bouchier's *Const.*

(King shall I call him?) *Richard* the Third's Days Bolsters on the Shoulders were in Fashion, that Men might seem to imitate that Prince in his Deformities, or lest it should seem a Fault in Subjects to appear straighter than their Monarch. This, if true, was a fulsome Flattery in all, especially in Ecclesiasticks. And it is probably true, that this Practice prevail'd in *Richard* the Third's Usurpation: For this Constitution was made but about twenty Years before he took Possession of the Throne. But then it must not be said that it began in his Reign, but might then be continued in Complaisance to the monstrous Tyrant.

their Shoulders in their Doublet, Coat, or Gown, nor an upper Garment so short as not to cover their middle Parts, nor Shoes monstrously long and turn'd up at the Toes, nor any such sort of Garments. If any Transgressor of this Statute and Ordinance be discover'd after a Month from the Publication therof, let him be wholly deprived of the perception of the Profits of his Ecclesiastical Benefice, if he have any: If he have none let him be wholly depriv'd of his Office or Service, whether he be Clerk or Laick, till he reform himself. And let the Lord or Master, who retains such an unreform'd Transgressor, or receives him again anew, take upon his own Conscience the Burden and Peril before the supreme Judge. And because we our selves are disposed to use all diligence toward the observance of this Constitution in our own Person, as God shall give us his Grace, we do in the Lord exhort all our venerable the Lords the Bishops, and other inferior Ecclesiastical Persons, we admonish all and singular Persons subject to us in virtue of strict Obedience, in the same Lord, that they so behave themselves in this respect as may be to the Praise of Almighty God, and for the avoiding Scandal to his Church; that we may not hereafter be forc'd to aggravate the Penalties of this Constitution.

A. D.

A. D. MCCCCLXVI.

Archbishop Nevil's Constitutions.

THE Constitutions of ^d *George Nevil* Archbishop of *York* made in a Provincial Synod in the Metropolitan Church of *York* on the 26th Day of *April*, in the Year of our Lord, 1466. *Lat.*

^d Brother to the Earl of *Warwick* the King-maker : This Archbishop had King *Edward* IV. Prisoner sometime. But the King reveng'd his own Cause effectually afterward.

George by Divine Permission Archbishop of *York*, Primate of *E.* and Legate of the Apostolical See, to all and singular Abbots, Priors, Ministers, Rectors, Vicars, and other Prelates of Churches, and to all Clerks, and Laymen of our Diocese and Province of *York*, eternal Health in the Lord. Tho' some Constitutions very useful for the preservation of Ecclesiastical Liberty and the guarding of Faith have been made and lawfully publish'd by our Predecessors the Archbishops of *York* in the Provincial Synods celebrated by them, yet the old Enemy envying the Welfare of the Faithful, and always suggesting and adding new Evils to old ones, in order to carry the more with him to [the infernal] Goal, labours daily with strange Arts to subvert the orthodox Faith, disturb the quiet of Men, and demolish Ecclesiastical Liberty: We therefore desiring to obviate the Attempts of the Devil, and the evil Deeds of Men, for the guarding of Faith, increase of the same, the Reformation of Manners, and the defence of Ecclesiastical Liberty, with the consent and assent of our Suffragans and Prelates, and of the Clergy of our Province, have caused these Constitutions which we publish, to be made, and add them to those which had been made before. And we will,
that

Nevil's *Constit.* MCCCCLXVI.

that they be written and incorporated among the other Provincial Statutes, and that they be firmly observ'd by all our Subjects of the Province of *York*.

1. ^e The Ignorance of Priests, &c. *the same with the ninth of Archbishop Peckham 1281. I can observe no remarkable difference, save that the York Copy is very full of Errors and Chasms.*

2. ^e It seems strange that these Constitutions transcribed from those of the Province of *Canterbury* should need a new Sanction, when they had all been received here but three Years before; but just so the *English* Church receiv'd the Popes Canon Law, and yet in almost every Provincial Synod some particular parts of it were re-inforc'd, tho' our Bishops did not transcribe *verbatim*, as those of *York* here do those of *Canterbury*. And the truth is, the Canon Law of the Pope was receiv'd here with as much reserve, as the Northern Province here receiv'd those of the Southern, tho' they did not so freely express their Reservations as these Northern Bishops did in their Constitutions 1463. It is sad to consider, that in 120 Years time the *English* Clergy had gotten no better constant Instructions for the People, than those of Archbishop *Peckham*.

2. ^f The same with the fifth of Archbishop *Stratford* 1343. for, the Tithe of Timber-trees.

3. The

^f King *Edward* IV. in the second Year of his Reign, viz. 1462. had by his Charter to the Church and Prelates expressly granted the Tithe of Timber Trees, and promised that his Courts should not send Prohibitions to the Ordinaries in such Cases; yet it seems this Archbishop saw occasion to reinforce this Constitution within four Years after the granting of that Charter. It is farther observable, that this Prince in that Charter confirms all the pretended Liberties of the Church, and particularly as to the Proceedings of their Court (maugre all Prohibitions, and without any Consultation) and freeing all Clerks from any Imprisonments, Attachments or Indictments by any Secular Power: Nay he sets aside all Premunires, and other Penalties incurr'd by

MCCCCLXVI. Nevil's *Constit.*

by Prelates in the exercise of what they call'd their Liberties, any Statutes of his Predecessors notwithstanding: And I can see no reserve that he makes but only that of two Lines, viz. That this present Grant shall in no wise be extended to the obtaining of Benefices, or Exemptions, or Capacities with a Monks Portion (the meaning whereof I take to be, that none shall get a Benefice from the Pope by any Provision of his, that no Religious House shall purchase of the Pope an Exemption from the Jurisdiction of the Ordinary, nor any Monk a Capacity of a Secular Dignity, or Benefice in the Church to be held together with his Place in the Monastery) yet Archbishop *Nevil* complains heavily of the Infringements of these Liberties, *Const.* 4, 5. And in the same Words that Archbishop *Stratford* did above an hundred Years before. In a word, either *Edward* the Fourth had an ill Memory as his Father had before him; or else *Westminster-Hall* over-rul'd the Royal Prerogative. In truth many Kings made such Promises to the Clergy upon their first Accession, which yet afterwards they found occasion to break.

3. The same with the ninth of Archbishop *Stratford* 1343. against fraudulent Deeds of Gift.

4, 5. Are the same with the twelfth of Archbishop *Stratford* 1343. *mutatis mutandis* against the Obstructors of Ecclesiastical Process.

6. The same with the last of Archbishop *Stratford* 1343. against fraudulent Suits.

7. Tho' by the Statutes of the 8 general Council, and of Pope *Clement* it is expressly forbid, that ^h Questors be any where admitted without shewing

8 *Lateran, A. D. 1215. c. 62.*

^h These were commonly, and justly in *England* call'd Pardon-mongers. They were Friars employ'd by the Pope, Bishops, or both for the raising Money toward building of Churches, and the like, and were authoriz'd to assure the People of so many Days, or Years of Pardon, upon Condition that they gave a certain Sum of Money toward the intended Work. They had considerable Privileges, with which they were not content, but were still enlarging of them. At last the Pope made

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made use of them for raising Money to fill his own Coffers, or to raise Portions for his Nieces. The Extravagancies of these Friars gave rise to the Reformation: Therefore the Council of *Trent* had good reason to suppress the Practice and very name of Questors. *Sess. 5. c. 2. Sess. 25. c. 9.*

shewing the Letters of the Pope, or Diocesan, or to preach any thing to the People but what is contain'd in those Letters, and that after the Apostolical Letters have first been carefully examined by the Diocesan: Yet some Questors with extreme Impudence, and to the deception of Souls have granted Indulgences to the People from a Motion of their own, have dispens'd with Vows, have absolv'd from Murders, Perjuries and other Sins, have remitted what has been stoln for an uncertain Sum of Money given to them, have relaxed a third, or fourth part of Penances injoin'd, have falsly affirm'd that they have drawn three, or more Souls of the Parents and Friends of those who have given them Alms out of Purgatory, and convey'd them to the Joys of Paradise, have given plenary Remission of Sins to their Benefactors in the places where they were Questors, and, to use their own Words, have ⁱ absolv'd them from all Punishment and Guilt: ^k *Clement* the Pope aforesaid, in the Council of *Vienne* hath wholly forbidden such Abuses to be attempted for the future, and revok'd all Privileges entirely by Apostolical Authority, if any such were granted in the Premises, or in any of them to some Places, Orders,

ⁱ Pope *Clement* V. in the Council of *Vienne* charges them with these very Words, which import a full and perfect Absolution, whereas their Commission was always limited to certain Terms. See *Clementine* L. 5. Tit. 7. c. 1.

^k The main of the five *Clementine* Books is taken out of this Council of *Vienne*, which was holden in the Year 1312. But see especially L. 3 T. 7. c. 2.

MCCCCCLXIII. Nevil's *Constit.*

or Persons of Questors of this sort, willing that the Questors, if any of them offend in the Premises, or in any other manner abuse their Privileges, shou'd be punish'd by the Bishops of the Places, their Privilege not at all availing them in this respect. Yet these Questors now-a-days intoxicated with Covetousness extort Money by fetches of Wit, they try their aforesaid Impositions, and attempt the like or greater; that is, they absolve such as are excommunicate by Ecclesiastical Judges, and remit publick solemn Penance inflicted by the Ordinaries of Places for publick Excesses, or at least deferr their coming to Church on such Days as were assign'd for the fulfilling of their Penance, and bury those who murder'd themselves in the Church-yards, and commit some other Enormities by which Ecclesiastical Censure is vilify'd, and the Authority of the Keys of the Church brought into Contempt. We therefore desiring fully to abolish these Abuses do will and charge that the ¹ Statutes of the Councils aforesaid be firmly observ'd in our Diocese and Province; and when such Letters Apostolical have been examin'd by the Bishop, and a Schedule of the Indulgences [to be preach'd] in writing annex to his Letters, let nothing be propos'd or preach'd by such Questors but what is contain'd in the Schedule aforesaid. But if any Questor do presume to attempt any of the Abuses aforesaid, or in any respect to act contrary to this our Constitution, let him be wholly remov'd from his Office, and never admitted to it again. And if any Rector, Vicar, or Chaplain ^m admit any such Questor [to preach] in his Church or Chapel, contrary to the Form of the Councils, let him be bound to pay

¹ See Notes ^m o p.

^m In Sir H. S. is added *vel Curati*: Perhaps it should be *Curati*.

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forty Shillings Penalty of lawful Money of *England*, to be apply'd to the Fabrick of the Metropolitane Church of *York*. Yet by this we intend no Prejudice to be done to those who have Episcopal Jurisdiction.

8. Whereas some Parishioners of our Diocese are so perverse, that they refuse to contribute to the Fabrick of their Mother Parish Church, thinking that they are to be excused from every thing of this sort on account of their contributing to the Fabrick of ^a Chapels within their Parishes: We considering that the said Parishioners were bound to contribute to their Church before, and more than to their Chapel, therupon we ordain that tho' the said Parishioners contribute to the repair of their Chapels, yet that they be in no wise excused from contributing to the Fabrick of their Mother Church, and supporting the other Burdens thereof, but be bound to contribute at the discretion of the Ordinary: And that if they refuse so to do after lawful Admonition given in this respect, let the said Chapels be interdicted, and no Divine Offices there celebrated, until the Parishioners effectually take these Burdens on themselves, or give Security for the doing thereof.

^a These were clearly Chapels of Ease voluntarily erected by the Inhabitants by leave of the Ordinary; and it was sufficient that they who retain'd to these Chapels were excused from going to their Mother Church, which was at a great distance: Therefore it was just upon their refusal to put them in *Statu quo* by interdicting the Chapels.

9. Tho' ^o *Othobon* of good Memory, formerly Legate of the Apostolical See in *England*, very strictly

^o See this Constitution of *Othobon* in *John Asbon*, p. 146. it is the sixth in number after those translated by me, 1268.

prohibited

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prohibited Monks and Canons Regular to spend their time alone in their Manors and P Churches, commanding all Abbots and Priors that they should forthwith call all such home to their Convents, or should take care that a q Monk, or Canon should be sent to accompany them; or else that the Abbots, or Priors should be suspended till they obey'd: Yet some Abbots, Priors, and Provosts of the Religious not only permit Monks, Canons, and other their Subjects to live out of the Verge of their Monastery, but grant them Letters Patents of Licence to absent themselves from their Monasteries, and to have Beasts, and Servants, and to remain among secular Persons, by which means such Subjects have an opportunity of wandering about contrary to the Canonical Sanctions and Regular Institutions. We seeing these Licences r to be so contrary to Decency, and perilous to the Souls of these Religious, do firmly injoin, and command that no Abbot, Prior, Provost, Minister, Master, or other Religious President whatsoever presume to grant such Licence to his Subjects for the future, under the Penalty of forty Shilling Sterling to be faithfully apply'd to the Fabrick of our Metropolitcal Church of *Tork*, beside the t Punishment of the Legatine Constitutions aforesaid. And we will, that the religious Vagabond be deem'd an Apostate. Yet by this Constitution we intend not to derogate from those who by Indulgence of the Apostolical See serve their own Churches, or Chapels by some one of their own religious Subjects.

P That is, Parsonages appropriated to their Houses.

q Monks, and other Religious were never allowed to go singly.

r In the Latin here is added, *Seculares quoque eandem*.

t *Viz.* Suspension, as above.

N n

10. Whereas

MCCCCCLXVI. Nevil's *Constit.*

10. Whereas the Church, according to the Gospel, ought to be an House of Prayer, and the Canons and Civil Laws have providently enacted out of reverence to God, and for the convenience of *Christ's* faithful People, who there continue in Prayer, that no one fleeing thither, or staying there for the sake of Devotion, or on other Accounts should be forced from thence, or cited, or arrested there, we imitating these Laws to the best of our Power, after due deliberation do ordain, that ^c no Ecclesiastical or Secular Person do arrest, cite, force out, or cause to be arrested, cited, or forced out, any Man that is in any Church, while Divine Offices are there celebrated, on occasion of any Action or Plaint, under pain of the greater Excommunication, which we will, that the Offender in this Point do incur *ipso facto*.

^c The Statutes, 50 *Ed. 3. c. 5.* and 1 *Rich. 2. c. 15.* do forbid Arrests in Churches, and Church-yards, but not Citations; and farther those Statutes were clearly made for Clerks only, and above all, the remedy by these Statutes is only the Imprisonment of the Offender, and a Composition with the Party arrested: These Acts being deficient as to these Particulars (especially because Catch-poles are commonly Men of no Estates, and therefore able to make no Pecuniary Satisfaction) therefore Archbishop *Nevil* supplies them, as far as was possible by an Ecclesiastical Authority.

11. *The same with the sixth of Robert Winchelsey in the Year 1305. beginning at* Whereas therefore by the command of Holy Scripture, &c. *The most remarkable difference is, that this Constitution does not mention Tithe of Wine, as the other does, but speaks of Tithe of Coal where they are dug, which is not in the other, and likewise Tithe of Saffron. It ends with these additional words,* A contrary Custom in any wise notwithstanding,

Morton's *Const.* MCCCCLXXXVI.

standing, for that does not lessen Sins, but increases them. Dated in the Provincial Synod celebrated in the Metropolitan Church of *York*, *A. D.* 1466. Then it proceeds to *Archbishop* Kemp's *Constitutions*, in the Form before given to the Reader, upon examining the Registers, &c. See 1444.

A. D. MCCCCLXXXVI.

Archbishop Morton's *Constitution.*

DEcree of *John* Morton *Archbishop* of *Canterbury*, and Legate of the Apostolical See in the Convocation of the Prelates and Clergy of the Province of *Canterbury* holden in the Church of *St. Paul's*, *London*, on the thirteenth Day of *February*, in the Year of our Lord's Incarnation, 1486, and of his Translation the first.

Because, ^u according to the ^{*} Holy Scripture a Concern for the Dead is holy, and wholesome, and we are bound to do good, especially toward them of the same House; with the Approbation of this Council we ordain, that when for the future any one of our Brethren the Bishops happens to die, and his Death is notify'd to the surviving Bishops, every Bishop of this Province so surviving him, so soon as conveniently he can and within a Month after notice of his Death, be bound to say, by himself, or by some other, the Exequies and six Masses for the Soul of the deceased Bishop, as he

^u See Const. 3. of *Peckham*, 1279.

^{*} 2 *Maccab.* xii. ult. *sancta* & *salubris cogitatio.*
vulg.

PREFACE. *P. Leo's Rescript, &c.*

desires to escape the Punishment imposed by the Canons on wilful Transgressors.

I find no particular Punishment assign'd either by the Canon Law, or our Constitutions for this Omision: Therefore I suppose it was left to the discretion of the Ordinary.

A. D. MDXIX.

PREFACE. *Pope Leo's Rescript to Archbishop Warham.*

AS I began with Pope Gregory's Answers to Augustin the first Archbishop of Canterbury, so I shall end with a Rescript of Pope Leo the Tenth, to the last Archbishop of Canterbury, before our Renunciation of all Subjection to the See of Rome: By which it will appear that in the nine hundred Years, which this Church of England continued in a State of Dependence on that of Rome, our Archbishops had made very small Improvements in the knowledge of Things that were even most frivolous and indifferent, and that Archbishop Warham was as far to seek in the conduct of himself in relation to the Government of the Church, as his first Predecessor in the See: For none of those Questions, which he sent to Pope Gregory to be resolv'd were less difficult or weighty, than this of Archbishop Warham to the present Pontif. But Gregory was a great Divine, and sufficient of himself to answer the Archbishop's Enquiries: Whereas Leo came as much behind him in Knowledge, as he did in Years; and could not determine so easy a Point without the Advice of his Brethren.

PREFACE. *P. Leo's Rescript, &c.*

I have taken notice of very few of the Popes Bulls, or Letters, as being of very little consequence to the Designs which I had in view. I have particularly cast'd over the Constitution of Paul the second against alienating, or letting long Leases of Church-land; and of Sixtus Quartus in the Year 1476. against the Violators of Church Liberties, and Innocent the Eighth's Letter to Henry the Seventh on the same subject. I shall only here make this general Remark on them, that the Privileges which the Prelates and Clergy then assum'd, were so unreasonable and extravagant, that tho' Kings on their Advancement to the Throne saw it necessary to promise they would guard and observe them in order to secure so great an Interest as that of the Clergy; yet they afterwards found it unpracticable to be true to their Engagements, unless for the sake of the Clergy they would incur the Ill-will of the rest of the Nation, and in effect unking themselves. And tho' Popes to secure themselves were always ready to swagger and speak big in behalf of the Liberties and Immunities of the Church and Clergy; yet there was so flat a Contradiction to common Justice, and even to common Sense in many of them, that it was impossible for the greatest Authority that ever was, without downright Violence, and external Force, always to maintain them in a Nation so sensible of Wrong, as the English are; and tho' Popes pretended a zeal for the Liberties of the Clergy, yet they often countenanced the States oppressing of them in some Particulars, that themselves might be suffer'd to do it in other Points. But I chuse to conclude with the following Rescript to shew my Reader what poor jejune Informations and Instructions we received from Rome in exchange for vast Sums of Money, which we yearly transported thither: For my Reader is to consider this, tho' as very trifling, yet as one of the most valuable, or at least innocent sort of Rescripts that came from thence.

A. D. MDXIX.

*Pope Leo's Rescript to Archbishop
Warham.*

Sir H. S. vol. 2. p. 727.

Lat.

TO our venerable Brother *William* Archbishop of *Canterbury*, Legate born to us and to the Apostolical See, Pope ² *Leo* the Tenth. Venerable Brother, Health and Apostolical Benediction. Your care has prompted you to ask of us on what Day you ought to injoin a Fast to your People, since on this Year the Vigil of the Nativity of the Blessed *John* Baptist falls on the Feast of the most holy Body of Christ: Having therefore taken mature Deliberation ^a with our Brethren on this Point, we think fit thus to answer you, viz. That we ordain by this Constitution for ever to endure, that the Vigil of the Nativity of the Blessed *John* aforesaid, when it falls on the [^a *ut supra*] Feast of the Body of Christ (in which the Remembrance of our Saviour, on whom our Salvation depends, is call'd to mind) in regard to so great a Festival Solemnity, the *Wednesday* ought to be fasted, and is to be fasted as that Vigil: And we command, that for the fu-

² This was that Pope who granted those extravagant Indulgences, which provoked *Martin Luther* to preach against them, which he began to do about two Years before the date of these Letters. And violent Agitations were thereby caused at this time in *Germany*, *Italy*, and other Places.

^a Tho' Pope *Leo* was allow'd to be a very polite Man, and excell'd in human Learning, yet his Defects in Ecclesiastical Knowledge were notorious: He was so far from practising Religion, that he did not know it: But he was of a very noble Family, and this answer'd all Objections,

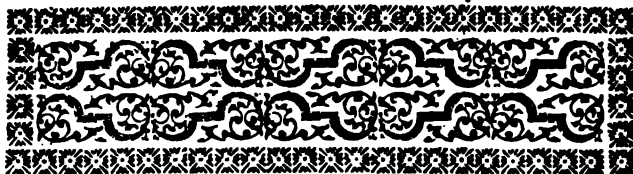
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P. Leo's Rescript, &c. MDXIX.

ture it be so observ'd by all, when the said Vigil falls on the Feast of *the Body of Christ*: Therefore you our Brother shall command the People committed to you throughout the Province of *Canterbury*, and your Suffragans, that on the present, as well as all future Years, in which the Vigil of the said *John Baptist* shall fall on the Feast of *the Body of Christ*, they fast on the foregoing Day, that is *Wednesday*, and observe that as the Vigil in Veneration and Devotion to the said Nativity. Dated at *St. Peter's, Rome*, under the Seal of the Fisher, on the nineteenth Day of *February*, 1519. in the sixth Year of our Pontificate.

^b The Feast of *Corpus Christi* was always on the *Thursday* in the Week next after *Whitsun-week*. If this Feast had a Vigil assign'd to it, ther might have been a Question rais'd whether the two Vigils could have been kept on the same Day; but *Midsummer-day* having a Vigil and *Corpus Christi* none, I cannot see any Grounds, that our Archbishop had to doubt, but that the Vigil of *Midsummer* was to be anticipated, the other Feast intervening, according to the old Rule, that if a Vigil fall on a *Sunday*, it is to be kept on the foregoing *Saturday*: For by parity of reason, if a Vigil fall on an Holiday, it is to be kept on the Day foregoing that Holiday. See *Decretal. L. 3. Tit. 46. c. 1.*

F I N I S.



ADDENDA, &c.

VOL. II.

A. D. MLXX.

IN Page 5. of the Preface, Line the 5th from the bottom, for now, read were.

Ibid. Can. 6: add this Note, One may wonder to see such a Canon as this made by an Archbishop, who was Witness, and approver of the Exemption granted by King *William* to the Abby of *Bassell*, which seems to have been the first Precedent of this sort; and from which the Popes quickly copied, and thereby not only raised great Sums of Money, but created to themselves great Bodies of Men, immediately subject to the See of *Rome*, and independent on any other Power, either Secular or Ecclesiastical. (For exempt Monks and Friars were so esteemed in the following Ages.) If *Laufranc* had obstructed this Innovation, he had acted consistently with himself in making this Canon, and shew'd the World that he had not muzzled himself by accepting the Archbishoprick. For certainly these Exemptions were one of the most flagrant Invasions of Episcopal Authority, and one of the great Scandals of Popery (as they were afterwards improv'd by the See of *Rome*) and not removed by our Reformation. Yet it is probable, this Exemption of *Bassell-Abby* had been dropt in King *Henry the Second's* Reign, if *Thomas Becket* had not supported it. The Bishop

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shop of *Chichester* had brought the Abbot to make Profession of Obedience to him. And when the Abbot came (as the Practice then was) to have his Charter renew'd soon after the King's Accession, Bishop *Hilary* opposed it as to the Point of Exemption; and so far prevailed, that the Renewal of it was deferr'd from time to time. But *Becket* being now Chancellor, did so effectually oppose the Bishop, as to frustrate all his Endeavours: So that it may truly be said, no Man that ever wore a Mitre in *England* did more Injury than *Becket*.

A. D. MLXXI.

In the Note on the Text-Preface. add, Sommer thus corrects the Latin, viz. quos Willielmus Normannorum Dux suo jussu armavit, & qui absque jussu suo erant armati, & ex debito, &c.

A. D. MLXXV.

In Text-Preface at Note 8, for Gaufrid, read Gauffrid.

Ibid. Can. 5. After some, add indiscreet Men.

At the End.

N. B. Ther is in the Library of St. *John's College Cambridge*, a MS Copy of this Council, with this Title, [*A Council of King William and Archbishop Lanfranc at London, concerning the Primacy of the Church of Canterbury, and the Rules of the Churches,*] yet ther could be no Dispute about the Primacy here. For *Lanfranc* called the Council, and presided in it, the Archbishop of *York* sitting at his Right Hand. In Sir *H. S's* third Copy, pag. 10, 11. there is indeed a Postscript after a brief Recital of the Subscriptions, to this effect; "That in those Times it was shew'd, and prov'd by diverse Authorities, that the Church of *York* ought to be subject to that of *Canterbury*, and to obey the Directions of the Archbishop thereof, as Primate of all *Britain*, in all things that concern the Christian Religion. And they asserted the Subjection of the Bishop of *Durham* to the Government of the Church of *York*, the Bounds of which [Government] were from the River *Humber* to the farthest Part of *Scotland*."

The,

ADDENDA, &c.

There are 35 Differences in the Spellings, Points and Words, between the first Copy of Sir *H. S.* (which I translate) and that of St. *John's*, but none that affect the Sense so as to oblige me to alter my Translation. The Names of the Subscribers, and of their Sees, &c. are the same in St. *John's* MS, and Sir *H. S's* Print, tho' differently wrote; particularly the [w] in Sir *H. S.* is for the most part [uu] in St. *John's*. I am persuaded that the Series of the Subscriptions in the MS from which Sir *H. S.* published his Copy, was the same with that in the other Copy; that is to say, that they consisted of three Columns, as they do in St. *John's* MS. viz. In the first Column on the left Hand, stand the two Archbishops and the twelve Bishops, with *Anschitill* the Archdeacon at the foot of it. In the second Column stand the twelve first Abbots, viz. *Scollandus* (as it is there written) Abbot of St. *Austin's*, parallel to *Lanfranc* the Archbishop, and so on, till you come to *Osfirich de Horton* the twelfth Abbot, whose Name stands parallel to that of *Stigand* the twelfth Bishop. But *Osbern* of *Excester*, *Peter* of *Chester*, and *Anschitill* the Archdeacon, stand singly in the same Column with the Bishops, without any Names parallel to them in the other Column. The nine remaining Abbots must therefore stand in a third Column. Sir *H. S's* Page was not large enough to represent the Subscriptions in three Columns as they stood in the MS, therefore he places all in one Row; and so *Anschitill* the Archdeacon stands before all the Abbots in his Edition, which probably the Abbots would never have endured in that Age.

A. D. MLXXVI.

In Lat. Preface, after York add, On that Year I say a Council was held at Wincheſter, on the Kalends of April, by the ſame Primate of the Church of Canterbury; and therein was the Cauſe of Aylric our Brother, formerly Biſhop of Chicheſter, determined, and brought to a final Iſſue: And therein it was alſo decreed, &c.

Add alſo there this Note: Aylric, or Egelric, is the ſame Name with Agelric. The Legate depoſed him, and the Conqueror, we have heard, had by force thruſt him from his
See

A D D E N D A, &c.

See into a Goal at *Marlburgh*, but without Crime. And now Things being brought to a sort of a Settlement, he applied to the Archbishop in Synod for his Enlargement. For by the old Laws of *England*, which the Conqueror pretended to observe, Ecclesiastics were to be tried by Bishops only. (See MLXIV. §. 3^c.) And this Bishop was very famous for his Knowledge in the Laws and Constitution of *England*: Insomuch that he was brought in a Waggon (*Quadriga*) to *Pinnenden-Heath* in *Kent*, to assist at the determining of a great Cause there, tried between *Odo* Bishop of *Bayeux*, (who was also the King's Brother, and Earl of *Kent*) and *Lanfranc* the Archbishop in 1073. It was probably by *Aylric*'s means that *Lanfranc* recovered his Lands then in dispute. (For it does not appear, that ther was then any such distinct Rank of Men as those now called Lawyers.) And at the same time the Archbishop recover'd some secular Privileges, as that neither King, nor Earl could claim any thing in the Archbishop's Lands, excepting that if the Archbishop's Men digged a Ditch, or fell'd a Tree in the King's Highway; or that Murder, or Bloodshed were committed, and the Party taken in the Fact; the Satisfaction was to the King; if he were not taken in the Fact, the Satisfaction belong'd to the Archbishop. Farther, it was adjudged that the Archbishop had Satisfaction due to him for Murder committed even on the King's, and Earl's Land, from such time as they cease to sing *Alleluia*, (that is, I conceive, from *Septuagesima*) till *Low-Sunday*; and also half the cýlþrte or Satisfaction for a Child unlawfully begotten. *Lambard* calls this the Correction of Adultery, and Fornication, and says, the Bishops had not yet gotten it wholly into their hands, because the King had half the Forfeiture; whereas in truth this Child-wite was a mere secular Right, and part of the Archbishop's Royalty. The Correction of the Offender for his Soul's Health was a distinct thing, and had ever been the Right of every Bishop within his own Diocese.

Aylric, who had carried the Cause for the Archbishop, could not fail of pleading his own Cause effectually, when he came to a fair hearing. His Bishoprick indeed (which was that of *Seolfsey*, now *Chichester*) was irrecoverably gone, by Royal Will and Pleasure of the Conqueror; but even his Successor *Stigand*, who now sat as one of his Judges, could do no less than vote him his Liberty.

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berly. The good Man could not long survive this; for *Edmer*, in his Life of *Dunstan*, where he speaks of the other with respect) says, that he was almost contemporary to that Archbishop, who had been now dead 88 Years.

Ibid. Canon 1. add this Note, An Oath of Chastity was in this Age imposed on all that enter'd into the superior Orders, as Sir *H. S.* proves by a Letter written by *Gerard* Archbishop of *York*, to *Anselm*, afterwards Archbishop of *Canterbury*, in which are words to this effect; "When I call on any to enter into [the superior] Orders, they oppose it with a stiff Neck, that they may not upon their Ordination profess Chastity". He justly supposes that the Oath was now the same with that mention'd by me in DCCXLII MS. Preface: Yet it is clear from this Canon, and from Can. 4. MCCII, that this Oath had not been universally taken of late Years.

Ibid. Can. 4. Note ^b, after *Contumacy* add, The Forfeiture for Contumacy to the Bishop, according to Law 35th of *Henry I.* was 20 Marks.

A. D. MLXXXV.

In Note ^d, lin. 4. dele who powerfully.

Between A. D. MLXXXV, and MCII, add what follows.

I have not taken into this Collection the Laws Ecclesiastical of King Henry I. partly because they were too bulky; and so interwoven with the Temporal Laws, as not easily to be separated; but especially, because in the main they contain very little besides Repetitions of the Saxon Laws, which I have already given my Reader in the former Volume.

The English, in this and the foregoing Reigns desir'd, and even demanded to be govern'd by the Laws of King Edward the Confessor; and the Laws of this King were no other than the Saxon Laws of his Predecessor, varied perhaps in some Circumstances, according to the exigency of the present Times. And I take the Laws of King Henry I. to be a Collection, or System of such Laws, drawn up in compliance with the most importunate Clamours of his People.

Some of these old Saxon Laws, which were, one would think, least of all agreeable to the Mind of the King, are there to be found; as that a Clergyman, if he have not married, and wholly abandon'd himself to a secular way of living, shall be tried by his Bishop only, for any Crime, great

or

A D D E N D A, &c.

or small, c. 57. Somner in his MS Notes calls this *Betket's Law*; and from thence concludes, that Additions have been made to these Laws since that Archbishop's Death: Yet I do not think this a just Conclusion: For the Collection of Edward the Confessor's Laws in the former Volume, bearing date there MLXIV. (Law 3, and 5.) do expressly give this Privilege to Clergymen. Among many Penances inflicted by these Laws, there is a Penance assigned particularly for killing Men in Battel, or in Defence of one's natural Lord, c. 68. Nay, in opposition to Popes, Councils, and the Mandate of the Conqueror, the Bishop is again required to sit in the County Court, c. 7. & 31. Countenance is given to making Appeals to Rome in some Cases, c. 5. And this was every now and then practised in the Saxon Times; but it never grew into a settled Course of proceeding, till Henry of Winchester introduced it, by being Legate constantly resident here in England. The only Law that concerns the Church, and which seems perfectly new, to my Observation at least, is that in c. 89. where he that is impeach'd for murdering Father, Mother, &c. if he denies it, is obliged to undergo the ordeal of walking over heated Plowshares. This is there called a *Salic Law*.

A. D. MCII.

In Note ^h on Lat. Preface, l. 6. after Council add, We are not to look on this as the beginning of a Coalition between the *English* and *Welsh* Church (which yet seems to have been brought about within twenty five Years from this time,) but *Herveus* pretended to have come hither as to a Place of Refuge, having been ejected from his See by secular Violence; but he was suspected to aim at an *English* Bishoprick, and he obtained one. On the Death of the last Abbot of *Ely*, the King granted to him the Custody of that Abbacy: And he so effectually ingratiated with the Monks, as to gain their consent to have their Abbacy erected into a Bishoprick. The King and Pope approve of their Design, and confirm it. The Bishop of *Lincoln* would not permit his Diocese to be dismember'd, till they purchased his Consent with a good Manor. Thus *Herveus* founded the See of *Ely*, and became first Bishop there. The Monks found reason to repent of their Easiness; for in separating the Estate between himself and them (which was now the general Practice) he left only the barren, and worthless part of the

A D D E N D A, &c.

the Lands to the Monks. In this, and other Particulars, he shew'd himself unworthy of the Kindness they had shewed him.

¶ *Ibid.* To *Can.* 17. add this Note, By *facere Milites* here, we may understand *Creating of Knights*. Great Abbacies were now Baronies, every Baron was to maintain several Knights; these Abbots were bound to do this, as well as other Barons. But they are here forbid to invest them in their Knighthood, according to the Forms and Ceremonies used by secular Barons. This was thought inconsistent with their Character, as they were Ecclesiastics.

Ibid. *Can.* 27, 28. The Note *r* at *Can.* 27. belongs to *Can.* 28. against Sodomy.

A. D. MCVIII.

Line 4. add, And with Consent of his *Barons*.

A. D. MCXXVI.

To *Note x* on *Lat. Preface* add, The Monk of *Winchester* speaks of this Miscarriage of the Legate, as what happen'd some time after at *Durham*, whither the Legate went to inflict Censure on that Monster of a Bishop *Ralf Passefabere*, who by his Artifice and Lewdness led the Legate into the Snare. No wonder therefore that these Canons grew into Contempt.

In the next Paragraph after *Canon Regular*, add, (*Radul. de Diceto* affirms, that *Stigand*, *Lanfranc's* immediate Predecessor, went in the Habit of a Clerk while he was Archbishop, which seems to mean that he never had been Monk.)

A. D. MCXXXVIII.

Can. 1. On the word *Chrism* add this Note, Notwithstanding this, and many other Prohibitions; yet it is clear in fact, that some yearly Payment was made by the Priest, when he received the Chrism. *Ernnulf*, Bishop of *Rochester*, hath inserted into the *Text. Ross.* his own Grant of the Pence paid on this occasion, as likewise of the Pence paid by every Priest, when he came to Synod, for maintaining the Buildings of the Monastery. Pope *Eugenius* by his Bull confirms the Bishop's Grant: He expressly mentions the Synodal Pence, tho' he could not for shame mention the Pence for Chrism; and the Prior and

Monks

A D D E N D A, &c.

Monks for several Ages after received them. There is in the same *Textus* on account of these Pence, by which it appears, that every Church (Péculiars, as well as not Péculiars) paid Nine Pence on this Account, and every Chapel Six Pence. And it ought not to be omitted, that in the former part of this Bull, the Pope confirms to the Prior and Monks their Estate, as distinct and separate from that of the Bishop, or rather, he ratifies Archbishop *Theobald's* Confirmation of it, which is there also inserted.

A. D. MCXLIII.

At the End, add, *The Craft of Popes, and the Supineness of the English Prelates, was never more visible than in point of the Legatin Power. W. Corboyl, or de Turbine, was the first English Bishop that had this Feather put into his Cap by the Pope (as his Predecessor Ralf seems to have been the first that took the wicked Oath of Obedience to the Pope) but it was soon pluck'd out again. For within a few Months his Legateship was forced to submit to John de Crema, who came hither as Legate à latere; and within a while he was wholly divested of it, and it was conferred on Henry Bishop of Winchester. And who could object against such an Honour done to the King's Brother? It was very agreeable to Henry's Inclinations. For he had requested the Pope to erect his See into an Archbishoprick; and the Monks of Winchester thought their Bishop had a right to Primacy, because Birinus their first Bishop came as a Missionary immediately from Rome, as Augustin did to Canterbury. But the Pope, though he would not consent to make Henry a Primate, yet he did that which made him more than a Primate: For by giving him the Legateship, he for the present set him above Canterbury, and made all the Bishops in England subject to him. But he soon eclipsed him, by sending Alberic to act as Legate à latere. And Henry's Legateship expired this very Year 1143, together with Pope Innocent II. from whom he had received it. For Archbishop Theobald prevailed with Pope Lucius, Successor to Innocent, not to renew the legatine Commission to Henry. And some time after, he who had introduced the Practice of Appeals to Rome, was forced to go thither to answer an Appeal made against him by his own Monks, for purloining their Treasury, and diminishing their great Cross, which had weigh'd five hundred Marks of Silver, and 30 of Gold. Thus Popes, under Pretence of doing Honour*

A D D E N D A, &c.

Honour to English Bishops, did really humble and mortify them. And the Bishops, by accepting of his insidious Honours, did in truth expose themselves, and enslave the Church. Theobald was also the Pope's Legate, but he lived to see his Primacy greatly diminish'd: For the Church of Ireland, which had acknowledged him and his Predecessors, as their Metropolitan had four Primates created in the Year 1152, or 3, by Pope Eugenius III.

A. D. MCLXXV.

After the first Paragraph of the Postscript, add, The Bishops of Lincoln were of old, Patrons of the Monasteries of St. Oswald Gloucester; and of Selby in Yorkshire, by right of Foundation, as I suppose, (yet Hoveden calls the first a Royal Chapel, and therefore it might be a Donation of some one of our Kings to the Bishop of Lincoln.) Thomas Archbishop of York claim'd the Diocese of Lincoln, as a Member of his Province. And it appears from what hath been said DCLXXIX, that Lincoln was part of the Kingdom of Northumberland, when it was first erected into a Diocese. Robert, then Bishop of Lincoln, rather chose to give King William Rufus 3000 Marks for his Protection, and to yield to Thomas the two Monasteries, or the Chapel and Monastery aforesaid, by way of Composition, than to subject himself and his See to the Archbishop of York: This was in the Year 1094. But now Richard Archbishop of Canterbury claimed the exercise of his Metropolitcal Authority in St. Oswald's, and being opposed in his Claim, he excommunicated the Possessors, and so the Cause was brought before the Legate, who gave Sentence for the Archbishop of York. And by this and such like Instances, we may see the use of Legates in England, by which the Pope gradually introduced the Canon-Law.

A. D. MCLXXXVIII.

In the Paragraph next after Article 81. on the words Baldwin—and Gilbert Bishop of Rochester his Vicar, add this Note, The Archbishops of Canterbury for about 80 Years, claim'd, and probably exercised the same Privilege, in relation to the electing and granting the Temporalities to the Bishop of Rochester, that the King did in relation to other Bishopricks: The Monks of Canterbury would not allow that a Bishop could be chose for Rochester in any place, but in the Chapter-House of Christ's Church;

ADDENDA, &c.

Church; but the Pope determined against this Privilege of the Archbishop and Monks in the Year 1238. During the time that the Archbishop enjoy'd this Privilege, and probably from the time of *Lanfranc*, till a good while after the Point of Election had been declared to be like that of other Sees, the Bishop of *Rochester* was styled Vicar to the Archbishop of *Canterbury*, and sometimes Chaplain to the Archbishop, or the Province, as he of *London* was Dean, he of *Sarum* Precentor, he of *Winchester* Chancellor. Ther is in the *Text. Roff.* a Memorial with this Inscription, *Hæ sunt Consuetudines, quæ debentur à Domino Cantuar. Archiepiscopo, Episcopo Roffensi*: The same is published in *A. S.* Vol. 1. p. 390. as from the Customary of *Rochester*; and it imports, "That the Bishop of *Rochester* shall have twenty Shillings a Day while he travels at the Archbishop's request, and while he exerceises the Episcopal Office in the vacancy of the Archbishoprick; that it shall be at the Archbishop's Option, when the Bishop of *Rochester* travels with him, whether to find him in all things necessary, or to entertain him his Clerks and Officers at his own Table: But that in the Evening the Bishop shall have two good Wax Tapers, fourteen greater Candles, twenty five lesser, answering to the Number of a twenty five Horses, and Men (*so I understand Equitaturarum*) Plenty of Wine and Beer; and five Shillings every Day for his Family and Horses. And that this Bishop ought to supply the Archbishop's Absence, in the Consecration of Kings as well as Bishops, receiving the Procuration aforesaid". This *Gilbert* (says the Memorial) exercised this Office while Archbishop *Baldwin* was absent in the Holy War, and during the Vacancy of the See, and received the Procuration aforesaid.

* *N.B.* *Text. Roff. hath here XVV. but 'tis printed in A. S. XXV.*

Ibid. At the next words, preached marvellously, add this Note, *Girald.* *Cambr.* says, he attended the Archbishop and his Vicar when they went into *South-Wales* on this occasion; that the Archbishop's Sermon at *Haverford* prevailed with very few to take the Cross; but that when he himself preached (vain Man) he drew abundance of Tears from People of all Ranks, and even from them that were most of all harden'd against the Enterprise, and

A D D E N D A, &c.

and brought Men in Crowds to take the Crofs; and that *John* Earl of *Moreton* (afterwards King) upbraided him for having drained the Countrey of Men that were able to bear Arms for the Defence of the King and People: Yet he tells us he preached in Latin and French only, and spoke Things rather than Words, tho' he knew the English Tongue, and was a Native of *Wales*. This I suppose he thought Spiritual Preaching; for he would seem to renounce all Self-complacency in his mighty Performances, by saying, *the Spirit bloweth where it listeth*.

A. D. MCXCV.

Can. 17. in Note k, read pecgan, *forte* Throats.

A. D. MCCXXII.

Const. 1. Note a add, It was always a Rule among good Divines and Canonists, that Excommunication should pass against none but such as were obstinate, as well as criminous. But by this new Method, Men were excommunicated for committing the forbidden Act, however penitent they were, and disposed to submit to Discipline. It is true, they were not liable to be taken up by a *Capias*, till Sentence had formally been denounced against them in particular; but all the spiritual Effects of Excommunication were supposed to fall on them as soon as the forbidden Action was perpetrated.

A. D. MCCXXXVII.

Const. 12. lin. 15. read Ordination of Churches.

A. D. MCCL.

Const. 1. lin. 19. for Choice, *read* Choire.

Ibid. In the last Paragraph, at the words Desks, and Benches *add this Note,* From hence we may conclude; that Rectors of Churches were bound to have Conveniences in their Chancels for the Priests and Clerks, to sit and lay their Books while they were reading or singing their Hours, or Breviaries. I should not have thought this worth the mentioning, if a late Antiquarian in Folio had not pronounced all those Chancels; where he found such Desks and Benches (Stalls he is pleased to call them) to have had some Body of Monks, or Reli-

ADDENDA, &c.

gious, formerly belonging to them. By this Argument he might probably 200 Years ago have prov'd every Church in the County to have belong'd to some Monastery or College.

A. D. MCCLXI.

Const. 1. Note c, lin. 3. read, In which Cases, though ther be no real Agrément, &c.

In the next Page, lin. 13. read the Text thus, If the King in his [Writs of] Attachment, Prohibition, or Citation, make mention of the Right of Advowson, of Chattels, of the Trespasses of his Subjects, or Bailiffs; (the Correction of whom he affirms to be in himself only) not of Tythes, or of the Breach of Faith, or Perjury, not of Sacrilege, or of the Perturbation of Ecclesiastical Liberty, then let, &c.

Add hereunto the following Note, Boniface here hints, in what Cases the Temporal Judges sent their Attachments and Prohibitions against the Ordinaries, viz. when they took into their Cognisance Causes concerning Advowsons, Chattels, and Trespasses: But he mentions Tythes, Breach of Faith, that is, of Covenants, and of Oaths, as things which the King and his Judges own'd to belong to the Ecclesiastical Court.

Ibid. In next Page save one, lin. 1. for his, read their.

Ibid. Const. 3. lin. 12. for nor read or; and in the first Line of the next Page, for be read he.

Ibid. Const. 4. Note p, for Copies read Capias.

Ibid. Const. 15. for Execution, read Executorship.

A. D. MCCLXVIII.

Const. 12. lin. 9. dele who.

Ibid. Const. 15. Note 2, add, In our Diocese, the Archdeacon had the Fruits of vacant Churches granted him by Archbishop Richard, Successor to Becket: See Somner's Antiquities, pag. 306.

A D D E N D A, &c.

Ibid. Const. 17. Note c, for by I know not what Art, read justly.

Ibid. Const. 30. lin. 24. for Tithe read Title.

A. D. MCCLXXIX.

Const. 3. Note n, add at the end, The fourth Point retracted by Archbishop Peckham, was the Excommunication pass'd by him against all those of his Province who sold Viſuals to the Archbishop of York, in his Journey to London to attend the King in his Council, or Parliament. Our Archbishops seem to have drop'd the Use of summoning him of York to Councils, and of obliging him to come to Canterbury to be consecrated, and there to profess his Obedience. But still, it was not allow'd that the Archbishop of York should have his Cross born up in State before him within this Province: And while he did this, Archbishop Peckham forbid, under Pain of Excommunication, any People of this Province to sell him Viſuals.

A. D. MCCLXXXI.

Const. 21. 7 Lines from the end, for wore, read wear.

A. D. MCCCXV.

*Const. 4. Note n, add, Sir H. S. in his Glossary, has cited the Book of Ramsay, c. 46. for saying, that on the Death of King Edgar, the Choir of Monks, and their Organs, were turn'd into Lamentations. This seems a fair Proof that instrumental Musick, if not Organs, strictly so call'd, were now in use. If this be not full Evidence, yet that of W. Malmsbury is: He tells us, that Dunstan in the Time of Edgar, gave many great Bells and Organs to the Churches in the West. And he so describes the Organs, that they must have been very like ours, viz. *Organa ubi per areas fistulas musicis mensuris elaboratas dudum conceptas follis vomit anxius auras*: They had brass Pipes and Bellows, (See *de Vita Aldhelmi*, pag. 33.) This Monk was born within little more than an hundred Years of Dunstan's Death. He tells us, the Organ at Malmsbury had an Inscription, shewing who was the Donor of it. This Writer was by an hundred Years more ancient than Thomas Aquinas. This then is a demonstration*

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monstration that Organs were used in the Church before his Time.

Ibid. *Const.* 5. *lin.* 37. *read* Trentals, and other Rights, *not* Rites.

A. D. MCCCXXII.

Const. 4. *lin.* 3. *read* there (*not* thus) reserved.

A. D. MCCCXXVIII.

Const. 3. *In the Text toward the end, read* either *ex officio* or (*not* and) at the &c.

Ibid. *Const.* 4. *Note* γ, *read* Predial (*not* Prodigal) Servants.

Ibid. *Const.* 5. *Note* b, *after thirty two add.* (It is scarce credible that L. should know the precise Weight of these sterling Pieces, unless he had seen and weigh'd them, or at least received his Information from them that had.)

A. D. MCCCXXX.

Const. 9. *dele* *Note* f.

A. D. MCCCXLII.

Const. 2. *add this Note*, Two Bishops have been famous in England, as on other Accounts, so particularly for restraining the excessive Demand of Fees and Vails in their Officers and Servants. One of them is still fresh in the Memories of all, I mean *Gilbert of Sarum*; the other is one whose Story will never die, *viz. Thomas Becket of Canterbury*; of whom *Girald. Cambr.* informs us, that he swore his Officers not to take the value of an *Englisch Kniple*, for making or sealing Letters or Instruments, (*de Jur. & St. Men. Eccl. pag. 625.*) This Kniple (in *Girald's* Latin *Cnipulus*) seems plainly to have been the least piece of Money then current. A great Antiquarian supposes it signifies a Knife. But why an *Englisch Knife*?

Ibid. *Const.* 12. *lin.* 36 and 37, *read* Collator, or Collatee, Presentor, or Presentee: and *lin.* 40. Presentees, or Collatees: and *lin.* 43. Presentees.

A. D. MCCCXLIII.

Const. 1. *Before Note* o *add*, The Archbishop, two or three Years before he had caused the General Excommunications

A D D E N D A, &c.

munications against the Violators of *Magna Charta*, &c. to be published, the King resented this, as an Affront offer'd to him; and supposed that the Archbishop intended by this to denounce his Majesty excommunicate, and therefore forbade the Bishops to publish them any more. The Archbishop answer'd, that he had made a particular Exception of the King, Queen, and Royal Family. This was while the Archbishop was under the King's Displeasure. (See *Birchington*, pag. 34, 37, 38.) The King was now convinced that the Archbishop had not deserved his Anger, and was fully reconciled to him, and desired him to publish the Excommunications.

Ibid. *Const. 5. after Note 2 add*, Here *L.* seems to drop the Claim of Tythe of Timber-trees: For he says, Tythable Wood is such as is for firing, not for building; but still persists, that the oldest Trees are Tythable, if sell'd for Fuel. For he delivers it as a Maxim, that Tythe is due of all Products of the Earth, and not of the Fruits only: He particularly mentions Stones dug out of Quarries; he asserts Tythes to be due of Treasure trove, but then he owns this in effect to be a personal Tythe; for he says it is a Tythe of *quasi* Negotiation. He farther asserts Tythes to be due out of the Fees of Advocates for pleading, and Masters for teaching. I fear we shall never be able to convince our Counsellors learned in the Law, that this is true.

A. D. MCCCCLXII, and MCCCCLXIII.

Between these two Dates add as follows, *It was now near 200 Years since Roger the high-spirited Archbishop of York had assum'd an equality with him of Canterbury, and claim'd the same Privilege of having his Cross born up before him when he was in the Province of Canterbury, which the other claim'd, and used in the Province of York. The two present Archbishops, Simon Islip, and John Thoresby, put an amicable end to this vain Dispute, by the Mediation of King Edward III. without the Interposition of the Pope. The Sum of the Concordat was, that John of York, within two Months of the Date thereof, (viz. Apr. 20, 1353, or 2.) and his Successors, within two Months from their first entrance into the Province of Canterbury, and having their Cross born up before them, should offer the Figure of an Archbishop bearing his Cross in Gold, or some other Jewel of forty Pounds value, at Thomas Becket's Shrine, by the hands of*

A D D E N D A, &c.

their Official, Chancellor, Auditor, or some Doctor of Law, or Knights: And that he of Canterbury, for the greater Antiquity, and Eminence of his Church, should in the Royal Presence sit on the King's Right Hand, and rest his Cross on the right side of his Throne, he of York on the left side: That in all places large enough, the two Archbishops, with their Cross-bearers, should go side by side; but in places too narrow for this, Canterbury should have the Precedence. In the Year 1452, an hundred Years after this Concordate, William Booth, Archbishop of York, did send such an Oblation by the Hands of a Knight. A. S. Vol. 1. p. 74, 75.

A. D. MCCCCLXIII.

Const. 1. Note 2 add, Especially because I find it a prevailing Opinion in this Age, that a Constitution of the Archbishop was binding to his Suffragans, if it came to their Knowledge. L. p. 240.

Ibid. Const. 2. Note c, the last words should be and Excommunication.

A. D. MCCCXCVIII.

Preface, in the third Line, for and read was: and lin. 14. after Archiepiscopal, add Dignity: and in the Title, the Reader may, if he please, substitute Walter for Arundel.

Ibid. Put Lat. in the Margin of the Line next the Title: and in the 24th Line of this Lat. Preface, read on the third Day before the Nones of November, instead of on three Non. &c.

A. D. MCCCCVIII.

Const. 3. lin. 7. dele any thing.

A. D. MCCCCXVI.

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A. D. MCCCCLXXXVI.

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Advertisement to the READER.

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The lesser Number always shews the particular Canon, Constitution, or Article there referred to. But, if the Memorial referred to be short, there is no lesser Number added.

Pf. denotes the Translator's Preface, Pl. his Postscript to any Set. If Lat. be added, it signifies the Preface or Postscript translated from the original Latin.

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- Baldwin*, Archbishop of *Canterbury*, preaches marvellously on *Crusade*, and dies in Holy Land 1188, *Pf.* 1195, *Pf.*
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- Benefices**, two to one Man perhaps forbid 1126, 12.
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- Bigamy**, the Tryal of it claim'd by Ecclesiastical Court between No. 5. 1308 and 1322.
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 glect to reform the Habit of Clergy 1268, 5.
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- the Repairs thereof to be taken care of 1195, 7.
- not to be charged with new Pensions 1200, 8.
- some not worth above three Marks *per Ann.* 1200, 10.
- Religious held some by an absolute Right 1200, 14.
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- Markets not to be kept in them 1268, 34. nor Plays 1363, 1.
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- all disorderly keeping of Vigils (perhaps Wakes) and Exequies, there forbid 1363, 2.
- Arrests and Assaults not to be made there, especially not in *St. Paul's London* 1463.
- Church* often signifies the whole Monastery, College or Parsonage, with its whole Endowments, *viz.* 1102, 14. 1127, 1, 9. 1195, 16. 1200, 8, 15. 1222, 49. 1138, 5, 46.
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- may be farm'd only to Clerk, but a Portion reserved for Poor 1281, 15.
- Rates or Assessments, upon Out-dwellers and Religious, as well as others 1342, 4. (the second of those so number'd)
- Church-Wardens* as Guardians of the Building, the Rise of them 1322, 6.
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- Church-Yards*, the Parishioners not to cut down what grows there,

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- Priests not to fell the Trees there without Cause 1279, 12.
- Citations.* See Summons and Apparitors.
- Glarendon*, the Articles there made said to have been renewed at *Northampton*, and confirmed by *Hugo* the Pope's Legate 1175, *Pf.*
- Clergymen*, or Clerks, sometimes including Priests, Deacons and Sub-deacons, (who were call'd Clerks in Holy Orders) but often those of the four inferior Orders only, or bare Psalmists.
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- in Holy Orders to live chaste, or desist from Office 1071, 15.
- to pay no new secular Service for Benefice 1076, 3.
- their Penance for fighting for the Conqueror 1072, 5.
- foreign, tho' received, not to officiate 1076, 2.
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- forbid to trade or farm 1175, 10.
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- carefully to preserve their Tonsure 1195, 10. 1261, 5.
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 their Wills to be executed 1343, 8.
 Complaint of King, Parliament, &c. against criminous
 Clerks, and their easy Treatment, and Regulation
 thereupon made 1351.
 Bigamist, and Married, lost all Privilege, except——
 1415, 2.
 and could have no Office in Ecclesiastical Court, *ibid.*
Clerkship, what 1261, 5. between 1308 and 1322, No. 5.
Coal (*Carbo Fossilis*) Tythe of it required to be paid in the
 North 1466, 11.
Coif, the Use of it forbid to Clerks, and why 1268, 5.
 1281, 21.
Collation null, when Bishop collates Clerk wanting that Or-
 der, for want of which the Patron's Clerk was re-
 jected

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- jected 1268, 30.
 to Benefices not rightly fill'd, allow'd 1342, 12.
Collets or Acolyths 1250, 1.
Commendam null'd (without Pope's Dispensation) except of one Benefice only, and for one Year, and to a Priest 1268, 30. 1279, 1, 2.
Commissaries, that is, Sub-Officials, not to determine matrimonial Causes, especially as to the Contract 1347, 6. and to give Sentence in Chapter only, *ibid.*
Commutations, not more than twice accepted from the same Person 1342, 9.
Concelebration of Masses 1279, 8.
Concubines, of Priests, Canons, beneficed Clerks, or of Clerks in Holy Orders, drove out of Parish, seized, brought under Penance or Servitude 1127, 7.
 expell'd from Church and Sacraments 1222, 31.
 what Clerks left them by Will to be applied to Church 1222, 32.
 either to marry, go into a Cloister, or do publick Penance 1236, 4.
 if they refuse all three, first to be denied the Kiss of Pax, and the Holy Bread; and if they are not so reduced, to be excommunicated, &c. 1236, 4.
Confessor to be settled by Bishop, and Archdeacon to give Penance to Priests, and in reserved Cases 1222, 19. by Bishop 1237, 5. 1322, 10.
 none to absolve Violators of Liberties and Pluralists, without Bishop's License 1281, 6.
 to whom Clergy were to confess 1281, 8. 1322, 10.
 Rules in doing their Office 1322, 8.
 to disclose no Crime confess'd to them, *ibid.*
 to confess Women without the Veil 1378, 3.
 not to absolve obstinate Pluralists 1279, 1.
Confession to be denied to none 1268, 2. See Penance.
 how often to be made 1378, 4.
Confirmation, none who had not received it were capable of the Communion 1281, 3.
 Fathers and Mothers of old not allowed to be Sponsors at receiving it, and if they were, the Marriage dissolved 1322, 2.
 the manner of preparing for it, and receiving it, &c. *ib.*
Consecration of Churches not to be perform'd till they and the Priests are well provided for in all Respects, 1102, 16.
 no Fees to be demanded for it 1126, 3. 1138, 3, 4. 1175, 7.
 but usual Procuracion allow'd 1138, 3.
 to be perform'd within two Years after the Church is finish'd

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- finish'd 1237, 1. 1268, 3.
- Contract** of Marriage, hypothetical, imposed on Fornicators after a third Relapse 1308. *See* Marriage.
- Convocation**, when lower Clergy became a part of it 1298, *Pf. Lat.*
- Cope**, the uppermost Garment of the Bishop and Priest at Mass, being a sort of Cloak or Mantle.
the Bishop is forbid to demand one as a Fee for consecrating Churches, or Bishops 1126, 3. 1138, 3.
- Cope-Close**, the canonical Habit for all Priests without the Church, tho' never received by the generality; it enclosed the whole Body and Head, enjoin'd 1222, 30. 1237, 14. 1268, 5.
- Copes** with Sleeves forbidden to undignified Priests 1195, 11.
allow'd to Archdeacons, and dignified Priests, *ibid.*
only black Monks, &c. obliged to use black Copes, 1200, 15.
red and green, the only Colours forbid to Clergy, 1222, 30.
- Corpses** not to be buried in other Parishes to Detriment of the proper Priest 1102, 25.
Sanctity not to be attributed to them without Bishop's Leave 1102, 26.
- Corrodies**, Liveries, Stipends or Pensions, how to be granted by Religious 1222, 38. 1444, 2.
- Council**, general, how many Bishops us'd to represent the Church of England there 1416, *Pf.*
- Creed** explain'd 1281, 9.
- Cross** suppos'd to be seen in the Air 1188, *Pf.*
of different Colours taken by each Nation, *ibid.*
why more honour'd than the As's which bore *Christ* 1362, 3.
to preach against the Adoration of it deem'd heretical 1408, 8.
- Crown**. *See* Tonsure.
- Cup** in the Eucharist, tho' of unconsecrated Wine, given to the People; and Reasons why Sacramental Blood was not allow'd them 1281, 1.
- Curates** may grant License to their Parishioners to be married in another Church 1343, 11.
qualified Priests obliged to leave their Chantries, and other Places, though more profitable, and to take Curacies 1347, 1. 1362, 1; 2.
their Salary encreased 1362, 2. 1378, 1.
perpetual, are by Law licens'd to preach in their own Churches 1408, 1.
Deacons may be Curates, *ibid.*

D. Date

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D.

- Date** of Time and Place to be inserted in Instruments 1237, 10.
- Deacon**, not to be ordained without professing Chastity 1076, 1.
- To keep no Woman but — 1108, 1. 1126, 13.
- 1127, 5.
- to make Purgation by four, Priest by six Men 1108, 4.
- forfeited Goods for Incontinency 1108, 10.
- ordained without Title, not to enjoy the Honour of his Order 1126, 8.
- not to give Baptism, Penance, or Eucharist, but in necessity 1195, 6. 1223, 1.
- ordained without Title, to be kept by the Bishop, if he want 1200, 6.
- might be Curate, and preach as such in his own Church 1408, 1.
- Dead**, Night-watches over their Corpses regulated 1343, 10.
- See* Annals, Trentals, Masses, Priests, Burial, &c.
- Dean**, sometimes signifies Head of a Religious House.
- must be a Priest 1126, 7. 1127, 4. forfeits if he kept a Woman 1108, 8.
- to take Oath that he will not connive at Concubinary *ibid.*
- sometimes signifies the Head of a Religious House, having Ecclesiastical Jurisdiction within certain Parishes, or Districts, by Custom or Privilege
- they are forbid to farm out their Jurisdiction 1237, 7
- nor to conclude Matrimonial Causes without consulting the Bishop 1237, 23.
- must have a Seal 1237, 28.
- sometimes denotes him that was afterwards call'd Official, then he was styled *Decanus Christianitatis*, but I find no mention of this Title in any of our Constitutions
- Rural**, was the President in the Chapter of Rectors, and Vicars within the District still call'd a Deanery, and who inspected the Behaviour of the Clergy and People within the same, and exercised Jurisdiction in Matters delegated to him by the Bishop, Archdeacon, or their Substitutes.
- they were to admonish the defamed, first privately, then before the Chapter, before they were brought to Purgation 1195, 19.
- with how many Horse and Men to visit 1200, 5.
- not to demand Aids or Subsidies of their Clergy 1200, 5.
- 1222, 25.
- not to meddle in Matrimonial Causes 1222, 20.

had

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- had been Confessors to their several Deaneries, but this was found inconvenient 1237, 5.
- Citations were often committed to their Care 1237, 26. 1268, 25.
- they were found guilty of Abuses in this Point, which were reformed 1281, 12.
- were obliged to have a Seal of Office 1237, 28.
- Deanery Rural*, in every one to be two or three Informers against Excesses of Prelates and Clergy 1236, 17.
- and against Men heretically inclined 1416, 1.
- Debts* due on Faith given, the Cognisance of them claimed by Ecclesiastical Courts 1261, 1.
- but denied to be of Ecclesiastical Jurisdiction 1164, 15.
- Dedications*. See *Consecrations*.
- Deposition*, that is, Death of the Man, Nativity of the St. *John of Beverly's* 1416, 2. See *Fasts*.
- that is, Degradation of Priests, Deacons, and Subdeacons for keeping Women 1126, 13. 1127, 5.
- for Usury 1126, 14.
- for Simony 1127, 1.
- for bearing Arms, or indecent Habit 1175, 11.
- for going to Taverns, &c. 1175.
- to Heads of Religious Houses for exceeding in number of Monks, or Canons 1222, 42.
- to Priests for disclosing Confessions 1322, 9.
- Deprivation* both of Office and Benefice, for keeping of Women 1108, 5, 8. 1200, 10. 1175, 1. 1127, 5. 1138, 8.
- of beneficed Clerks for refusing to be ordain'd to the Superior Orders 1127, 4.
- to Clerks that were Usurers, or engaged in secular Offices 1138, 9.
- to Clerks, who being suspended for their Incontinence did yet officiate 1236, 3.
- to superior Clergymen that sat Judges in Blood 1175, 3.
- to Abbots conniving at Monks Property 1200, 15.
- to Priors for Dilapidation, or Incontinence *ibid.*
- to him who did not reside, and personally serve Cure of no more than 5 Marks *per Ann.* 1222, 15.
- for alienating Lands 1222, 33.
- to Bishops, and others who connived at Clerks officiating, during their Suspension for Incontinence 1236, 3, 4.
- to such as demanded Money for giving Penance 1237, 4.
- to Vicars, for not being ordained Priests 1237, 10.
- to such as endeavour'd to retain both Church and Wife 1237, 15.

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- to such as meddled with Ecclesiastical Matters, while suspended 1237, 16.
- to Son that had succeeded to his Father's Benefice 1237, 17.
- to Clerks that violated Sanctuaries 1268, 12.
- to Pluralists without Dispensation 1268, 30. 1279, 1.
- to Pluralists who opposed the loss of all Benefices but the last 1279, 1.
- Dks.*, forbid to them that engaged in the Crusade 1188, 5.
- Diffamed* for any Crime, how he is to be treated 1195, 19. 1200, 12. *See* Purgation.
- Dilapidations* said to be a Debt, but due out of the Predecessor's Ecclesiastical Estate only 1236, 22.
- To be made good out of the Estate of the Church, while fill'd with the Incumbent 1268, 17.
- Inquisition upon Oath made of old by Ordinaries on this Point 1328, 9.
- Dispensations* granted by the Pope.
 - for *Bastards* being admitted to Orders, and for Clerks to officiate, though ordained by an improper Bishop 1236, 37.
 - for Plurality of Benefices, without Limitation 1237, 13.
 - for Benefices already got, or hereafter to be got 1268, 29.
 - for Commendams 1279, 2. *See* Pope, and Irregularity.
- Distributor* 1281, 20.
- Donation* of Goods before Death, whereby the Donor is made insolvent, null 1343, 9.

E

- Ecclesiastics*, that is, Bishops, Clergy, Monks, Canons, Nuns.
 - not to sit Judges in Causes of Blood 1075, 9. *& passim*.
 - to take nothing to farm 1127, 8.
 - on what Terms they might alienate Lands 1222, 33.
 - to plead no other Right to their Lands, *&c.* in secular Courts, but length of Possession 1261, 12, 13.
- Ecclesiastical Courts*.
 - Cost given in them against Clerks cast in pecuniary Causes 1175, 13.
 - no Pay there to be taken for doing Justice 1195, 12.
 - their Method of proceeding on common Fame 1195, 19. 1200, 12.
 - to give mutual Assistance in case of absconding Criminals 1328, 3.
 - their Acts null, if bigamous, married Clerks, or Laymen have any hand in them 1415, 2. *See* Ordinaries, Advocates, Proctors, Seals, *&c.*
- Edmund Rich* of Abindon Archbishop of Canterbury, very scrupu-

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- scrupulous, offended both King and Prince, therefore
forced to leave his Countrey, and died abroad; af-
terwards canoniz'd 1236, *Pf.*
- Edward*, King and Confessor.
secular Service paid by Churches in his Time to conti-
nue, and no other 1076, 3.
- I. since the Conquest an arbitrary Prince 1298, *Pf.*
- III. desires general Excommunications to be publish'd
1343, 1.
- IV. his large Promises to Church and Clergy at his Ac-
cession 1466, 2.
- Egelwine* Bishop of *Durham*, his Behaviour upon the Con-
quest 1070, *Pf.*
- Election* of Prelates, how to be made 1164, 12.
that they should be free 1222, *Pf.*
- Eucharist*, carefully to be reserved, but not above eight
Days, and carried to the Sick by Priest, or Deacon,
if it may be 1138, 2. 1236, 21.
not to be sopp'd 1175, 15.
- Tabernacle, or Canopy made for it in every Church,
how pompously carried to the Sick, and adored by
People 1279, 7. 1281, 1.
how often to be received, who to be repelled from it
1378, 4.
when Men were advis'd not to receive it, *ibid.*
- Exchange* of Benefices not to be made but on Oath given,
that ther was no Fraud 1391.
- Excommunication*, against Monks that threw off their Habit
1071, 12.
against Lay-men not appearing at third Summons 1076, 4.
against deserting Clerks and Monks refusing to return
1102, 11.
against Sodomites 1102, 28.
against Priest that celebrated while he kept a Woman
1108, 6.
against them who ejected Priests without Bishop's Con-
sent 1126, 9.
against them who received Excommunicates to Com-
munion 1126, 11.
against Practisers and Approvers of Sorcery 1126, 15.
for selling a Church 1127, 1.
for hindering Priests Concubines from being seized
1127, 7.
for demanding Money for Chrism, Sacraments, &c.
1138, 1.
against impenitent Spoilers of Churches Goods 1138, 11.
against Clerks obstinately unconformable in Hair and
Apparel 1175, 4.

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- not to be passed without Warning 1200, 7. 1222, 26.
- against Monks that had Property 1200, 15.
- against Clerks Concubines, who did not submit upon Ejection from Church and Sacraments 1222, 31.
- to be pass'd by Priests against Detainers of Tythes 1200, 9. 1223, 10. 1236, 35.
- against intruding Clerks 1261, 1.
- against great Men causing Intrusion 1261, 3.
- against such as brought Prohibitions from secular Court to Ecclesiastical 1261, 6.
- against such as obstructed Ecclesiastical Proceeding against *Jews* 1261, 8.
- against Seizers of Ecclesiastical Goods and Lands 1261, 9.
- against such as took Clerks Goods for King at their own Price 1261, 10.
- against Wasters of Prelates Lands in a Vacancy 1261, 11.
- against Distressors of Bishops for not personally appearing in King's Courts 1261, 12.
- or for not allowing their Liberties to be tried by Juries, *ibid.*
- against Temporal Judges, who denied that *all* included whatever was now enjoy'd, or that a Privilege granted, tho' not used, was in Force 1261, 14.
- against Lords and others, hindering Administration of Goods, and executing of Wills 1261, 15.
- against them who made Suggestions to King's Courts against Ecclesiastical 1261, 16.
- against them who refused Oaths, or Penance imposed by Ecclesiastical Courts, and their Protectors 1261, 17.
- against those who denied Confession to Malefactors 1261, 18.
- against Confessors that absolved Pluralists 1279, 1.
- against advocate getting a false Proxy 1281, 13.
- against stipendiary Priest intercepting his Principal's Offerings 1305, 5.
- against Lay-men that obstructed Offerings or Tythes 1328, 7.
- against Clerks accepting Benefice from Lay-Hands 1330, 7.
- against Molesters of Tythe-Takers 1343, 4. and Obstructors of Wills 1343, 7.
- against such as watch'd by Night over Corpses 1343, 10.
- against such as kept *scot* Ales, or Drinking-bouts 1367, 2.
- *against them that read Scripture in Mother Tongue without Bishop's Leave 1408, 6. See *ipso facto*.
- Excommunications*, general, denounced solemnly, with Candles lighted and Bells tolling, in Council against all that

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that should violate the Provisions there made 1143,
Pf. Lat. 1222, 1.
 against those who denied to pay Tenths for Crusade
 1188, 5.
 against false Swearers every Lord's Day, and three times
 a Year with Bell and Candle 1195, 17.
 are mention'd, and thereby Men are said to be excom-
 municated without Warning 1200, 7.
 made by Archbishops and Bishops in King's Council at
Westminster, upon the Renewal of *Magna Charta* in
 King *Edward I.*'s Reign (as at the first granting it in
 King *Henry III.*'s Reign) 1298, *Pf. Lat.*
 these Excommunications to be denounced by Bishop in
 every Cathedral, by Priest in every Parish-Church,
 every Lord's Day after every Rural Chapter. 1279, 3.
 or however four times a Year 1222, 1. 1330, 9.
 1343, 1. twice a Year 1298, *Pf.*
 this Practice was restored after long Disuse 1434.
 Obstructors of Ecclesiastical Jurisdiction to be four times
 denounced excommunicate in every Church every
 Year 1343, 12. *See* Publications in Churches.
 -*Excommunication* to be pass'd, and Excommunication already
 pass'd; the Difference between them 1261, 8. Bell
 and Candle used in the former Case 1236, 36.
Excommunication the less, for communicating with Excom-
 municates 1298, 3.
Excommunicates, in worse Condition than they who were
 only repell'd from Church and Sacraments 1222, 31.
 when they are said to be in Contempt of Excommuni-
 cation 1222, 1.
 after Prohibition against conversing with them publish-
 ed, they who conversed with them incurr'd the great-
 er Excommunication 1236, 19. 1298, 3. 1408, 1.
 taken up and escaping, how treated 1261, 4. 1343, 12.
See Capias.
 how the Sentence was to be aggravated against them
 1261, 4.
 if for Heresy, their Goods were to be seized 1408, 1.
 not to give Security for the Remainder, but only for
 Satisfaction in the present Case 1164, 5.
Exemption of Monks and Clerks from Bishop's Jurisdiction,
 forbid 1070, 6.
 yet by Power of Pope, or King, or both, some
 Churches are said to be held by an absolute Right
 1200, 14.
 therefore such exempt Prelates said to have Episcopal
 Jurisdiction. 1466, 7.
 instead of being commanded, they are requested to pay
 their

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their Devotions for deceased Bishops 1279, 8.
 Friars, by Virtue of Papal Exemption, could take the
 Confessions of any People at Discretion 1281, 6.

F

Falsarians. See *Forgers*.

- Fasts*, to be kept with Cessation from Labour 1328, 1.
 of the Power of enjoining Fasts to be kept 1328, 2.
 new Holydays did not always imply a new Service
 1398, 1416.
 Number of them complained of, and Fasts of Obliga-
 tion specified 1362, 3. Fasts with nine Lessons
 1367, 3.
 State Holydays call'd *Feria repentina* 1281, 9.
- Fasts* occasionally mention'd, or enjoin'd.
 St. Anne 1391. Annunciation of the Virgin Mary
 1328, 2. *St. Chad* 1398, 1415. Conception of
 the Virgin Mary 1328, 2. *St. David* 1415, 1. *St.*
 Dominic 1237, *Pf.* *St. Edward* the King, *ibid.* *St.*
 Edward, King and Confessor 1445. *St. Francis*
 1237, *Pf.* *St. George's* Feast (to be observed as *Christ-*
 mas-Day) 1415, 1. *St. John* of *Brerley*, whose
 Tomb was said to sweat, during the Battel of *Agin-*
 court 1416. *Thomas* of *Canterbury* 1764, *Pf.* A
 Commemoration of him to be every *Tuesday* 1398.
 St. Winefride 1398, 1415.
- Fees* stated for Letters of Orders, Institution, Induction
 1342, 2.
 for Probate of Wills 1342, 5. See *Christm*, *Sacraments*,
 Burial, &c.
- Flesh* not to be eaten by Monks, except— 1237, 19.
- Font*, Baptismal, to be of Stone, and decent 1223, 1.
 1236, 9, 10.
 to be kept under Lock and Key 1236, 9.
 the baptismal Water not to remain in it above seven
 Days 1236, 10.
 the Water in which private Baptism was given, to be
 poured into the Font or Fire, *ibid.*
- Forgers* of Instruments, or Seals, their Penance 1237, 27.
 Bishops and Archdeacons charged with this Crime, if
 they do not give Archbishop a true Account of *Plu-*
 ralists 1279, 1.
- Fountains* not to be revered without Bishop's Consent
 1102, 26.
- Friars* in great Request 1279, *Pf.*
 caution'd to preserve their Chastity 1279, 11.
 their Impudence in confessing, and absolving People
 1281, 6. 1466, 7.

G. Geof.

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G

- Geoffrey* Archbishop of *York*, how treated 1195, *Pf.*
 imposed upon by the Sabbatarian Frauds of Abbot *Re-*
foats 1201.
- George Nevil* Archbishop of *York*, had King *Edward* IV. his
 Prisoner 1466, *Pf.*
- Girard* Archbishop of *York*, allows of Investitures 1107, *Pf.*
 yet swears Obedience to *Anselm* 1107, *Pf.*
- Gilbert* Bishop of *Rochester*, accompanied Archbishop *Bald-*
win into *Wales*, and preached marvellously 1188,
Pf. Lat.
- Good-Friday*, or Preparation-Day, to be kept festively
 1328, 1.
- Gowns* first mention'd as Clergy-mens Apparel 1463, 2.
- Guardian* of the Temporalities of Prelacies, during Vacancy,
 an Office assumed by King *William* I. 1070, *Pf.*
 King *Stephen* promised the Clergy or Monks of the
 Church should have this Privilege 1138, 11.
 asserted to belong to King, as his Demefne did 1164, 13.
 Ravages committed by this Occasion, to be satisfied by
 Officers that committed them 1261, 11.

H

- Habit* of Clergy-men. (*See* *Copes* close.)
 it might be of any Colour but red and green 1222, 30.
 and the Accoutrement of their Horses to be decent
 1237, 14. 1268, 5. 1281, 22. 1463, 2.
 most at large 1343, 2. Officiating Habit, *see* *Mafs*
Vestments, and *Surplice*.
- Hair*, long, forbid to Priests, and a clipp'd Crown enjoin'd
 1222, 30. *See* *Tonsure*.
- Henry* I. King of *England*, asserts his Right of investing Bi-
 shops and Abbots, but is at last obliged to a Com-
 promise 1102, *Pf.* 1107.
 eludes the Canons which himself had approved against
 married Clergy 1127, *Pf.*
- Henry* of *Blois* Bishop of *Winchester*, Legate à *l'arsere*, held
 several Synods in that Character, asserted Right of
 chusing Kings to be chiefly in the Clergy, introduced
 the Practice of Appeals to *Rome* 1143.
- Henry* II. King of *England*'s Dispute with *Becket* 1164, *Pf.*
 Satisfaction promised by him 1164, *Pf.*
 gave up all Customs against Church introduced in his
 Time 1164, *Pf.*
 consults with the King of *France* concerning the Cru-
 sade, and exacted a Tenth of all Mens Goods toward
 it, yet drops the Design 1188, *Pf.* and *Pf.*

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Henry III. King of *England* obsequious to the Pope, and fond of Legates 1237.

offers a Legate his Castles to imprison Ecclesiastics who refused to grants Tenths to the Pope 1298, *Pf.*

V. King of *England* desires, that *John of Beverley's* Day be kept 1416.

VI. receives a golden Rose from the Pope 1446.

Heresy was any thing contrary to the Pope's Decrees, or Decretals, or to the Constitutions Provincial 1408, 3, 8. a Man convict of preaching it a third time, to have his Goods seized 1408, 3.

he that translated Scripture, or read it when translated, without the Bishop's Consent, treated as a Fautor of *Heresy* 1408, 6.

Propositions that carry a Sound of *Heresy*, forbid 1408, 7.

summary way of proceeding against them that were suspected of it 1408, 10.

Partiality with respect to the Evidence, *ibid.*

three Informers in every Deanry sworn to present suspected Persons 1416.

such as were not deliver'd to be burnt, to be kept till next Convocation, *ibid.*

Hood mention'd as worn by Prelates and Graduates 1463, 2. *Hof*, the Sacrifice, or Eucharistical Bread.

to be kept in a decent Pyx, and renew'd every Lord's Day 1195, 1. 1200, 2. 1322, 4.

to be carried to Sick with a Light and Cross 1195, 1. 1200, 2. 1322, 4.

to be given in private to no impenitent 1200, 2.

to be given to all that offer themselves in publick, so that their Crimes be not notorious, *ibid.*

not to be kiss'd by Priest before he received it 1236, 32.

People not to grind it with their Teeth 1281, 1.

nor to receive it till they had first confessed to Priest *ib.*

Hubert Walker Archbishop of *Canterbury* was Justiciary of *England*, but oblig'd by the Pope to resign his secular Power (yet was afterwards Chancellor) visited *York* by Legatine Authority 1195, *Pf.*

he held a Provincial Synod, notwithstanding the Prohibition of the Chief Justice 1200, *Pf. Las.*

paid a singular Regard to the Pope 1195, 1200, *per tot.*

Husband impleading his Wife as too near a-kin, not to be regarded 1126, 17.

neither he nor his Wife to travel, without mutual Consent publicly notified 1200, 11.

Husbandman in Field under Churches Protection 1143, 2.

Hymns, the Use of them left at Discretion 1367, *Pf.*

I. *Jews*

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I

- Jews* forced to contribute to Crusade 1188, *ps.*
 threaten'd with canonical Punishment, if they have
 Christian Slaves, or build more Synagogues, or do
 not pay Tythes, &c. 1222, 51.
 to wear a Badge, and not go into a Church 1222, 52.
 forced to stand to Ecclesiastical Judicature 1261, 7.
- Immersion*, whether necessary 1279, 4.
- Impropriation* of Churches regulated 1102, 21. 1200, 14.
 1268, 22.
 a Portion out of every such Church assign'd to Poor 1342, 4.
- Incest*, solemn Penance to be done for it 1281, 7.
- Incestuous* Marriage, and he who conceals it, how censured
 1102, 24. *See* Marriage.
- Inculcation* of Orders, that is, giving or taking too many at
 once, forbid 1281, 5.
- Induction*, no Fee to be demanded for it 1200, 8.
 not to be delay'd by Archdeacon, &c. 1222, 4.
 Procuration allow'd on this Occasion 1342, 3.
- Indulgences*, the beginning of them 1188, 3.
 to be granted with Discretion 1279, 9.
 granted to them who pray'd for the King, &c. 1351.
 granted to encourage Pilgrimage and Procession 1454.
 the violent Excess Friars were guilty of in preaching
 them 1466, 7.
- Infamy*, judicial, fix'd on concubinary Priests 1108, 5. 1127, 5.
 they who lay under this Imputation, disabled from be-
 ing Witnesses 1195, 18.
- Inquest* or Jury of twelve Men, to be pannell'd by Sheriff, for
 trying Men for Crimes in Ecclesiastical Court 1164, 6.
 in King's Court, to try whether Lands were held in
Franc-almoyn 1164, 9.
 concerning Right of Patronage, commonly held in Ec-
 clesiastical Court, on Vacancy of every Benefice
 1222, 1. 1342, 12,
 to be done before a full Chapter 1281, 14.
 this or a like Inquest, determined the Dilapidations
 1328, 9.
- Insinuation* of last Will, that is, producing it in Form before
 Ordinary 1328, 5.
- Institution*, no Fee to be demanded for it 1200, 8.
 allow'd to none for Benefices of three Marks *per An-*
num, except they would serve in Person 1200, 10.
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Prelates, that is, Bishops, Abbots, Deans, Priors, Archdeacons, or their Substitutes, exercising Ecclesiastical Jurisdiction, not to impose new Pensions on Churches, nor to take Fruits of vacant Benefices to their own Use 1200, 8.
 to institute and induct *gratis* 1222, 3. and to restrain Officials in Fees, *ibid.*
 nor to usurp the Meane Profits *not yet collected*, (so it ought to be read) 1222, 4.
 if ther be any Delay in instituting, when ther is no just Objection,

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- Objection, the Mesne Fruits to be restored to the Clerk 1222, 4.
- to make Restitution of Damage done by hasty Institution 1237, 11.
- not to admit Sons to Father's Benefices 1237, 17.
- not to obstruct Peace between Litigants 1237, 21.
- if they do, to make Restitution, and give Doubles to the Poor 1268, 27.
- not to shew Acts of their Court to King's Judges, nor to purge himself on Oath from having disobey'd King's Mandates 1261, 1.
- Bishop refusing to certify Excommunicates, to be compelled by Archbishop 1261, 4.
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- forthwith to collate to Vicarages vacated by tenth of *Otho* 1268, 9.
- not to institute without good Evidence that the Church is vacant 1268, 10.
- not to apply Mesne Profits to their own Use, without special Cause or Custom 1268, 15.
- to see that their own Houses be well repair'd 1268, 17.
- not to seize Goods of Intestates 1268, 23.
- to commit Causes to none but Dignitaries or Canons of Cathedral or Collegiate Churches 1268, 24.
- to put their Seal to no Proxy, but at Request of Principal 1281, 13.
- making clandestine Inquest to satisfy for Damages 1281, 14.
- to substitute no bigamous or married Clerk, nor Layman 1415, 2.
- to take nothing for Insinuation of a poor Man's Will 1328, 5.
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- admitting Presentees (so it should be read) into the place of present Possessors, censured 1342, 12.
- to enquire into the Apparel of Clerks 1343, 2.
- to beware of insufficient Substitutes 1347, 6. *See* Officials.
- Presentation*, within what Time to be made 1222, 5.
- President*, the principal Priest belonging to any Church 1305, 5.
- the same with Ordinary or Judge Ecclesiastical 1368.
- Priest*, to invite Lay-men to Penance 1070, 8.
- in Villis or Castles, might retain their Wives 1076, 1.
- yet none to be ordain'd without professing Chastity, *ib.*
- if incontinent, his Mass not to be heard 1102, 7.

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- their Sons not to succeed them in their Churches 1102, 7.
 not to drink to Pews 1102, 9.
Priests Clothes to be of one Colour, their Shoes plain
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 that they who served improprie Churches might not
 want 1102, 21.
 not to be Losers by Corpse being buried in another Pa-
 rish 1102, 25.
 to have no familiar Conversation with Women 1108,
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 to make his Purgation by six, the Deacon by four
 1108, 4.
 to have Vicars to officiate for them, during Penance
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 forfeited their Goods for Incontinency 1108, 10.
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Priest, none to be married without his Benediction 1175, 17.
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 not to bargain for Masses, but be content with Offer-
 ings, *ibid.*
 to give Baptism and Eucharist to Sick, without Delay
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 not to go to Taverns, nor publicly keep Concubines
 1195, 18.
 to be very exact in pronouncing, especially the Canon
 of Mass 1195, 1.
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 had Power to censure, and absolve Detainers of Tythes
 1200, 9. 1223, 10. 1236, 35.
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 how 1236, 16.
 to have a clean Cloth near the Altar to wipe his Fingers
 1236, 32.
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 rying it to the Sick 1322, 4. 1362, 1.
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 Penny to Archdeacon to enter him into his Matricula
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 Censure or Process was to follow him, upon Change of
 Diocese 1362, 2.
 to make no Abatement or Commutation of Penance en-
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 that all Mixture of Man and Woman, without Mar-
 riage, is mortal Sin 1378, 2.
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ham 1466, 4.
 Stipendiary, call'd also Chaplains, not to share in the
 Oblations, especially not those made on occasion of
 a dead Corpse present, to assist at singing Hours in
 Chancel, nor begin their private Mass till after the
 Gospel of high Mass be ended, and to take an Oath
 to observe this 1305, 5.
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Priors, that is, the Heads of lesser Monasteries which had
 not Abbots, the Priest next the Abbot in greater Mo-
 nasteries, or next the Bishop in Cathedral Monaste-
 ries, where the Bishop perform'd the part of Abbot.
 for what they may be removed 1200, 15.
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- Prisons*, every Bishop to have one or more for criminous Clerks 1261, 21.
- how Clerks were to be kept there 1351.
- Probatory Term*, Time allow'd by Judge for producing Witnesses 1237, 24.
- Processions* for King, &c. enjoin'd by Archbishop in Convocation 1298, *Pf.*
- again, on the Morrow after the Octaves of Pentecost, on Lord's Days, Feasts, *Wednesdays* and *Fridays* 1268, 35. 1454.
- Professors* of Cathedral and Parochial Clergy in Convocation 1279, *Pf.* 1298, *Pf. Lat.*
- Agents in Courts Ecclesiastical, how to be constituted 1237, 25.
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- pretending to be themselves Principals, to be excluded from all legal Acts 1281, 13.
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- due to Visitor only when he visits 1200, 5. 1268, 18.
- but one to be paid for one Church 1212, 16.
- to be moderate according to Canon, without Extortion 1222, 22, 23. 1237, 20. 1268, 18.
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- Canonical, due to Bishop on consecrating a Church 1138, 3.
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- Procurations* claim'd by Apparitors 1261, 19. 1268, 18.
- Prohibitions* sent from King's Court to Ecclesiastical Synods or Courts, to prevent the Mischief of Pope's Canon Law.
- Hubert Walter* Archbishop of *Canterbury*, held Synod in Opposition to this 1200, *Pf. Lat.*
- how Prelates were to oppose these Prohibitions, particularly in case of Faith, or Covenant broken 1261, 3.
- Proxies* not to be granted but by Principals certainly known 1281, 13.
- Publications* in Churches. See Excommunications general.
- Excommunications against Sodomites every Lord's Day 1102, 28.
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Oshobon's Constitution against violating Sanctuaries every Lord's Day 1268, 12.
Peckham's Homily, &c. 1281, 9.
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Queen might without Licence have Mass said in her consecrated Chapel 1342, 1.
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Rectors, that is, Abbots or Priors of Monasteries, Incumbents in unimproprate Parish Churches, to take care of the Repair of their Churches 1195, 7.
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Reinelm of Hereford, resigned his Bishoprick out of a Compunction for having received it by Royal Investiture 1107, Pf.
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Reserved Cases, in which none could absolve but the Bishop, or his Confessor, or Vicar General; or, if the Case were thought exceeding gross, none but the Pope: These Cases mention'd 1236, 16.

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37 Cases reserved to Priest and Bishop 1363, 5.

Residence of Rectors 1237, 13. See Oath.

Resignation not to be made by Proctors 1237, 13. See Oath.

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Richard I. King of England, his unhappy Expedition to the Holy Land 1185, *Pf.*

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Robert Winchelsey acted as a sincere Papist in his Dispute with King *Edward I.* 1298, *Pf.*

he first settled lower Clergy's Right to sit in Convocation 1298, *Pf. Lat.*

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Rocheſter, the Bishop of that See, Vicar of old to Archbishop of *Canterbury.* 1188, *Pf. Lat.*

Roger of York his Claims on *Canterbury*, and turbulent Behaviour 1175, *Pf.*

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- yet somewhat hinted to be due for them 1222, 27.
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- Sacrifice* of the Eucharist to be of Wine, not Beer 1071, 6.
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- Sacrilege*, how punish'd 1261, 8.
- incurr'd by Stipendiary Priests hearing Confession 1305, 5.
- Saints*, speaking against the adoring of them, their Images and Relicks, deem'd heretical 1408, 8. See Feasts.
- Salisbury*, the Bishop's See translated from *Shirburn* thither 1075, 3.
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- Satisfaction* due from Lay-men for Contempt of Ecclesiastical Court 1076, 4.
- School-masters* not to hire out their Schools 1128, 17. See Licence.
- Scot* Ales forbid to Priests and Clergy 1236, 4.
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- Scripture*, Translation of it forbid without Bishop's Leave 1408, 6.
- Seals* put by Bishops to Letters of Orders 1175, 5.
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- Secret*, or Canon of Mass, that is, the most solemn part of it from the *Trisagium* to the *Pax*. Bells not to be rung while it is said 1071, 10.
- to be correctly written 1195, 3.
- perfectly pronounced 1222, 6.
- Sequestration*, not to be used but in special Cases, during the Vacancy of a Church 1268, 15.
- of benefices of Clerks Defendants in Ecclesiastical Court forbid 1322, *Pf.*
- Impropriations subject to it, if the Poors Portion be not paid 1342, 4.
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- Servants* obliged to work on all Feasts, but those of Obligation 1362, 3.
- Seven* Sacraments briefly explain'd 1281, 9.
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- Simon Langham* Archbishop of *Canterbury*, and Cardinal, his Zeal for certain Rhymes in Honour of St. *Katharine* 1367, *Pf.*
- Simon Sudbury* Archbishop of *Canterbury*, his Fate, *ibid.*
- Simony* hinted on Bishops and Abbots, in Conquerors Time 1070, 1.

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 ings, Mansion and Jurisdiction, when they began first
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Stephen King of *England*, makes fair Promises to Clergy, but
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 ordained without Title, to be kept by Archdeacon who
 presented him to Bishop 1200, 5.
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- Substraction* of the Fruits of Benefice, a Censure inflicted on Clerks.
 - for intruding uncanonically into a new Benefice 1261, 3.
 - for writing Attachments against Ecclesiastical Persons 1261, 1.
 - for keeping a Concubine 1222, 31.
 - for one Year for building on Lay-Fee 1330, 8.
 - for Excess in Apparel 1463, 2.
- Summary* way of proceeding in Courts Ecclesiastical 1408, 10. 1439.
- Summer* and Winter, the several Ways of reckoning the Beginning and Ending of them 1250, 2.
- Summons*, three of old necessary before Sentence 1085.
 - by whom to be executed 1342, 7.
 - to be made by an authentic Messenger 1237, 26.
 - to be certified by the Person who made it 1268, 25.
 - Time to be given for one in foreign Parts 1281, 15.
 - manner of summoning one who cannot be found 1328, 3.
 - served at improper Place, null 1342, 7. Sunday, *see* Lord's Day.
- Surplice*, was the Vestment of him that served or tended at Mass 1222, 11. 1322, 4, 5.
- Surplice* and Stole, used by Priest in carrying Host to the Sick 1279, 7.
 - to be used by Stipendiary, or assisting Mass-Priest at his singing the Hours in Chancel, and at his own Cost 1305, 5.
- Suspension* from Office and Benefice.
 - against concubinary Priests not reclaimed by being declared infamous 1195, 18.
 - against Intruders into Benefices fill'd 1237, 11.
 - against Archdeacon's admitting Clerks into Benefices fill'd 1342, 12.
 - against concubinary Priests, and their Concealers 1268, 8.
 - against Ordinaries refusing to pay the Doubles of excessive Fees 1342, 2, 5.
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- Suspension* from Office.
 - against incontinent Priests 1102, 5.
 - for three Years against Priests that marry others clandestinely 1175, 17.
 - for not perfectly pronouncing Canon of Mass 1200, 1.
 - for a Year, against Archdeacons who farm out their Spiritualities 1222, 24.
 - against a regular Priest transgressing in Clothes or Diet, 1222, 24.

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- against Priests who burthen themselves with Soul-Masses
1236, 8.
- against Bastards, and such as are irregular, till they got
Dispensation 1236, 37. 1138, 7.
- against beneficed Clerks, for not effectually demanding
Tythes 1250, 2.
- against Clerks writing Attachments against Ecclesiastical
Persons 1261, 1.
- for three Months, for Neglect in keeping Font 1236, 9.
- against Priests receiving more than five Marks a Year
for saying Masses, or more than six for serving Cure
1362, 1.
- against Priest for abating or commuting Penance en-
join'd by Superiors 1363, 5.
- against Archdeacon or Rector, for neglecting to ask the
Bishop to consecrate a Church 1268, 3.
- against Prelate for restoring Benefices fraudulently re-
signed 1268, 31.
- for three Months, against Priests Neglect of the Refer-
ved Host 1279, 7.
- for three Years, against Priests marrying without Banns
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Banns 1328, 8.
- for one Month, for celebrating in unconsecrated Cha-
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their Extortion, on assisting Priests 1342, 11.
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ber of Apparitors 1342, 8.
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improper Places 1342, 7.
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ing Induction, or extorting Fees on that Account
1342, 3.
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- against Ordinaries personally administering Goods of De-
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- against Priest's Concubines 1268, 8.
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late 1268, 30.
- Suspension* not to be pass'd without Warning, except where
the Excess is manifest 1222, 26.
- Swearing* enormously, forbid to those who undertook the
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- not to do it in usual Cases and Manner, heretical 1408, 8.
- Swords* or Knives of exceeding Length, worn by Clergy-
men 1343, 2. 1463, 2.
- Synods* Provincial, twice a Year 1070, Pf. and 4.
- the Disuse of them in *England* 1075, 1.
- none in the Reign of *William Rufus* 1102, Pf.
- King, and great Men, present at them 1107, Pf. Lat.
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- Synod* Legatine, without one Bishop Coassessor 1195, Pf. Lat.
- Decrees of such Synod esteem'd of no Force, but only
during the Legateship 1237, Pf.
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- Ten Commandments, as understood by Papalins 1281, 9.
- Tenhs of the Spiritualities of the Clergy, on what Occasion
first raised 1188, *per tot.* 1298, Pf.
- Theobald* said to be elected Archbishop of *Canterbury* by the
Bishops 1138, Pf.
- Thomas* first Archbishop of *York*, only subscribed his Profes-
sion of Obedience to *Canterbury* 1070, Pf.
- Thomas* second (as *Girard*) swore to it 1107, Pf.
- Thomas Becket*, how chosen Archbishop of *Canterbury* 1164, Pf.
- Occasion of the Stirs made by him 1164, *per tot.*
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- Commemoration of him every *Tuesday* 1398.
- Thurstan* (misprinted *Thomas*) Archbishop of *York*, goes to
Rome to defend himself against *Canterbury* 1126, Pf.
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terbury 1127, Pf.
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- Tythes to be paid 1070, 10. 1071, 14. 1236, 35. 1175,
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 they who detain'd them, deem'd Hereticks and Infrin-
 gers of Liberties 1305, 6.
 they who refused to pay them till Gloves or Shoes
 were given them, and obstructed the carrying of
 them by direct ways, censured 1328, 7.
 Frauds and Molestations in paying them, forbid 1343,
 4. 1347, 3.
 of Wood ceduous, whether it included Timber 1343,
 5. 1466, 2.
 of Coal and Saffron 1466, 11.
 not to be sold till separated 1230, 8.
Title necessary for one to be ordain'd Priest or Deacon
 1126, 8.
 and for one to be ordain'd Subdeacon 1200, 6.
Tonsure of Clergy-men to be preserved, and be visible 1200,
 11. 1102, 12. 1237, 14. 1268, 5. 1281, 21.
 the lower part of the Hair, how to be clipp'd 1102, 23.
 1268, 5.
 Clerks without Tonsure lost their Privilege 1261, 20.
 1343, 2.
Trentals 1236, 8. 1305, 5.
Trinity-Sunday, or Feast of Trinity, when instituted 1268, 35.
 V.
Vestments of Priests and Clerks for officiating 1250, 2. 1281,
 27. 1305, 4. *See* Surplice.
Vicars to concubinary Priests, who were under Suspension
 1108, 8.
 to concubinary Priests, while they were under their
 forty Days Penance 1108, 9.
 settled Substitutes of Rectors, (who took an Oath of Fi-
 delity to their Principals) not to assume the Parsonage
 1175, 12.
 to take care of the Repair of their Churches 1175, 7.
 none

I N D E X.

- none allow'd but such as would serve in Person, and would shortly be ordain'd Priests 1222, 14.
 to inform Bishops of the Excesses of their Parish Priests 1236, 26.
 upon Admission, to renounce all other Benefices, and be capable of Deacons Orders next *Ember-Week*, and to swear Residence 1237, 10.
 he that is Vicar on any other Terms, to refund the Fruits 1268, 9.
 and farther to be deprived of all other Benefices, *ibid.*
 he was to chuse the Bearer of the Holy Water Pot 1261, 22.
 he might excommunicate Infringers of Liberties by Name 1298, *Pf.* and 3.
 to be settled by Religious in their impropriate Churches where ther was none before 1268, 22.
 they were perpetual Curates, therefore might preach in their own Churches without Licence 1408, 1.
 might, if poor, sue for Augmentation *sub formâ pauperum* 1439.
Vicarage, but one to be in a Church, except— 1222, 13.
 1237, 12.
 was of old a more compatible Benefice than a Rectory 1222, 12. 1237, 10.
 to be endow'd with what would let for five Marks a Year 1222, 16.
 some very poor, where the Rectory was rich 1439.
 these to be raised to ten Marks, if the Rectory were worth it 1439.
Vicars Temporary, that is, Curates for a time might not preach in their Churches without Licence 1408, 1.
See Chaplains.
Vigils kept by Night in the Church, but disorderly, therefore forbid 1363, 2.
 of St. *John Baptist*, how to be kept, when *Corpus Christi* Day came next before it 1519.
Villains, or Tenants in Villainage, not to be denied the Privilege of making Wills, and having them duly executed 1261, 15. 1328, 4. 1343, 7.
Visitation, Parochial, by Bishop, Archdeacon, or their Officials.
 The Design of it, and the Number of Men and Horses allow'd 1200, 5, 22.
 Archdeacons regulated 1222, 25, 26. 1322, 6.
 they visited every third Year, and might visit every Year 1222, 25.
Visiting the Sick to be done *gratis* 1126, 2. 1138, 1.
Unction,

